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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1214th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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STATEMENT BY MR. RALPH ZACKLIN, OFFICER-IN-CHARGE, HIGH COMMISSIONER/
CENTRE FOR HUMAN RIGHTS

CLOSURE OF THE SESSION

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GE.97-16023 (E)

The meeting was called to order at 3.05 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

State party reports for consideration at the fifty-first session

1. The CHAIRMAN invited the Committee to consider which State party reports should be taken up at its fifty-first session in August 1997.

2. Mr. YUTZIS said that careful organization was called for since at that session the Committee could not postpone adopting its concluding observations given the deadline for submission of its report to the General Assembly. The Committee and the secretariat should together decide on the appropriate methodology for the most rational use of the available time.

3. Ms. ZOU Dexi said that the most important point for the August session was that the Committee should review State party reports and draft its concluding observations on them. Those observations mattered to the States parties, which sent delegations to the Committee's meetings. Only the last days of the Committee's sessions, however, tended to be devoted to concluding observations, which was not the best arrangement since frequently not all were present at the end of the session. There was no flexibility with regard to time and the observations were adopted in haste or deferred until the next session. Moreover, the secretariat had an extremely busy workload during the last few days of each session. Time should therefore be added to discuss the concluding observations, and there should be no time-limit on the number of meetings allotted for that purpose. The discussion on the observations should not be concentrated in the last few days of the session. Rather, during the second week of the session, the Committee could discuss the concluding observations concerning those States whose reports had been considered during the first week, and so forth. Reports should be considered during the first part of the session and other items deferred until later in the same session or the next session in order to avoid delaying consideration of the concluding observations. The consideration of reports should be concluded at the session at which it was begun.

4. The CHAIRMAN said that at the present session, the concluding observations on the first State party considered - the United Kingdom - had been drafted straightaway, but it took time for them to be adopted. In a "non-paper" distributed to the Committee on planning for the fifty-first session, the Bureau had recommended that 10 States parties should be scheduled for consideration of either their initial or periodic reports. While the Bureau had been reluctant to delay consideration of the Philippines until the fifty-second session, as that country was eighth in the list according to the order of receipt of the reports, and it preceded Cambodia on the list, the history of the Committee's relations with Cambodia had been so special that consideration could not possibly be postponed. Similarly, the Bureau had been concerned about the urgency of the situation in the former Yugoslav Republic of Macedonia, and had therefore recommended that it should be considered ahead of the Philippines as well. There was agreement about the principles; the problem was in applying them to the selection of States parties for the agenda for the next session.

5. Ms. ZOU Deci asked if less time could possibly be given to consideration of other items on the agenda.

6. The CHAIRMAN, referring to his note on the planning of the future session (CERD/C/50/Misc.10), said that in every session of 30 meetings, one meeting was needed for the opening of the session, one for the closure of the session and one for communications. The Committee's report to the General Assembly and the Third Decade to Combat Racism and Racial Discrimination were not included in the plans for the August session. One meeting was also needed for the new report on the future of the treaty body system. That left nine meetings, which included time for the concluding observations.

7. Mr. YUTZIS wondered how many countries the Committee could realistically deal with in the allotted time.

8. The CHAIRMAN said that the time available must be divided up with more time spent on new reports than on overdue reports. The amount of time that could be spent on the early-warning and urgent procedures was flexible.

9. Mr. YUTZIS said that criteria for choosing priorities were needed, and he proposed three categories: countries submitting reports on time, countries in situations of emergency and other countries, in that order. The Committee must make its calculations in advance and come up with a firm list at the previous session and keep to it. The list that the Chairman had announced at the previous meeting should be used for the next session.

10. The CHAIRMAN said that such a prioritization was contained in the Bureau's recommendation, which was for a total of 35 meetings. As there were only 30 meetings per session, some States parties would have to be deleted from the list.

11. Mr. VALENCIA RODRIGUEZ said that the August session would be a very complicated one, as the Bureau was recommending consideration of 10 initial or periodic reports, whereas usually the number was 7. If that was what the Bureau had agreed, however, he would go along with it. Then there was the question of States parties to be considered under the urgent-action procedure; he believed that Yugoslavia, Rwanda and Burundi were currently of the greatest importance. But what about Jerusalem? He suggested that 4 meetings should be set aside for the concluding observations; 2 for consideration of long-overdue reports; and 2 for other matters, including communications. That would leave a total of 16 meetings for the consideration of reports, instead of 17 as suggested by the Chairman. The Bureau could review the list in the light of developments.

12. Another matter was the discipline of members of the Committee. Country rapporteurs could keep to a maximum of 30 minutes, other members wishing to ask questions or discuss other points, but without repeating the remarks of the country rapporteur, should not exceed 10 minutes. The representatives of States parties should have an initial 30 minutes for their presentation and another 30 minutes for final comments and for responding to questions. He agreed that the number of reports to be considered should be reduced in order

to spend more time on reports that were fundamental to the Committee's work. The country rapporteurs should review the concluding observations before they were put before the Committee.

13. The CHAIRMAN said that while rule 39 of the rules of procedure regarding time-limits for speakers, could be used, the practice was to find out how much time was available and who wished to speak and to divide the time among them; that was more flexible than a mechanical 10-minute allocation.

14. Mr. GARVALOV said that the first priority should be regular reporting of States parties and the second prevention. While a backlog of 20 reports was, of course, excessive, he considered that a small backlog was acceptable. The quality of consideration due to States parties and their delegations must not be sacrificed in the name of expediency. He was in favour of retaining on the list of reports to be considered by the Committee all those which had already been submitted, in other words, the group listed in paragraph 1 of the minutes of the Bureau meeting ("non-paper"), and thought the Committee should then address itself to the issue of prevention. As time permitted, it might also consider States parties listed in the three other paragraphs of the minutes.

15. He suggested increasing to at least six the number of meetings devoted to discussion of the concluding observations. It was unfortunate that, during the previous afternoon's discussion with a State party, members of the Committee had disputed a statement made in the concluding observations.

16. The CHAIRMAN said the the Committee must make difficult choices with regard to the amount of time to allocate to discussion of prevention and to the question of rescheduling Rwanda for consideration at the August session.

17. Mr. de GOUTTES said that at the time when Rwanda had been placed on the agenda for the fifty-first session, the Committee had not yet heard the previous day's statement by the Permanent Representative of that country. It had been clear from that statement that the Rwandan Government saw little point in cooperating with the Committee unless such cooperation was accompanied by additional resources, which the Committee could not provide.

18. The CHAIRMAN asked those members who favoured consideration of Rwanda at the August session to suggest which reports should be dropped in order to provide the two meetings required for such consideration.

19. Mr. GARVALOV suggested that the portion of the session devoted to States parties scheduled for consideration under the review procedure should be shortened in order to compensate for the time spent on discussion of Rwanda.

20. Mr. de GOUTTES agreed with Mr. Garvalov that the Committee must give priority to reports submitted by States parties while not ignoring the issue of prevention. However, for scheduling reasons, he thought the urgent procedure should be taken up during the second part of the session. By beginning with the reports of States parties, the Committee would have time to adopt its concluding observations as quickly as possible and could then discuss the urgent procedure.

21. The Committee should give first priority to consideration of States parties which had both submitted a written report and sent a delegation. In cases where a report had been submitted but no delegation had been sent, no dialogue with the State party was possible, and so consideration might be limited to a report by the country rapporteur. Finally, in cases where the State party had provided neither a report nor a delegation, a short report by the country rapporteur would suffice.

22. In connection with Mr. Aboul-Nasr's question at an earlier session, he wondered whether the majority of the Committee members were willing to abandon the system of country rapporteurs, thereby gaining considerable time.

23. The CHAIRMAN said he did not think the majority favoured that course of action. He took it that the Committee agreed that initial reports should be given more lengthy consideration than periodic reports and that periodic reports, in turn, deserved closer attention than updating reports. The General Assembly had given its approval for the Committee's intervention in cases of long-overdue reports.

24. Mr. RECHETOV suggested that a firm decision should be taken concerning the length of time to be granted to delegations, country rapporteurs and individual Committee members during consideration of reports. States parties were beginning to respond positively to the Committee's work, and it was unfortunate that the Committee's own lack of organization made it impossible for it to deal with reports quickly and in a professinal manner.

25. He agreed with Mr. de Gouttes' suggestion concerning the Committee's consideration of States which had not submitted reports. Such States should be informed in writing that they must do so, and it was essential that they should appear each year on the provisional agenda; they must not be permitted to boast with impunity to the international community of their commitment to human rights and to the Convention. He also agreed that, in cases where there had been a delay of over five years in submission of a State party report, the country rapporteur might, as time permitted, devote 15 minutes per meeting to a brief presentation, as Mr. Shahi had done in the case of Mongolia. It was important to appoint rapporteurs even for countries which had not submitted reports since the knowledge that they were scheduled for consideration might induce them to submit reports or make changes in their human rights legislation.

26. The CHAIRMAN said it was his understanding that Mr. Rechetov favoured sending letters to all the countries listed under section D of document CERD/C/50/Misc.9/Rev.2 and asked whether the Committee supported that proposal.

27. It was so decided.

28. Mr. SHERIFIS said that while, in principle, all States parties' reports were important, for practical reasons priority should be given to initial reports and, in particular, written ones. States which sent delegations should be given more detailed consideration. For example, Cameroon, despite the distance and expense involved, had sent four high-ranking representatives and had therefore deserved the extra time that had been devoted to discussion

of its report. Committee members should agree on priorities and observe time-limits rather than forcing the Chairman to call them to order. However, not only quantity but quality mattered; the Committee must not rush through its concluding observations for lack of time, particularly in the case of its recommendations concerning the report of States parties.

29. While he agreed with the Chairman that the majority of members did not support the suggestion concerning the possibility of abolishing the country rapporteur system, there were, in fact, members who did support that system. It was important for members to hear their colleagues' points of view and air their differences before allowing the will of the majority to prevail.

30. The Committee's recommendations might not be binding stricto sensu on States parties, but they must be binding on the Committee itself, which should not debate them after the fact in the presence of delegations of States parties. If the Committee wished to amend or withdraw a recommendation, it should do so at a time when no delegations were present and by majority opinion. To proceed otherwise gave States parties a very bad impression. He did not agree that consideration of reports should be an occasion for that type of dialogue between the Committee and States parties or between members of the Committee. For example, only 40 minutes had been devoted to discussion of the report of Cameroon with the delegation of that country; the rest of the meeting had been spent in intellectual debate on matters of interpretation. Lastly, it was inappropriate for a member of the Committee to inform a delegation of his opinion that a given article of the Convention, such as article 14, was inappropriate and should not be taken into consideration. The Committee should not discuss such matters when non-members were present.

31. The CHAIRMAN asked whether Rwanda should be scheduled under the urgent-action procedure, as proposed by the Bureau, or in the context of its periodic report.

32. Mr. SHERIFIS said that, as a result of the Committee's discussion with the representatives of Rwanda the previous day, the country was not a priority issue for August; the Committee should postpone its consideration as it did not have the time. It was simply not possible to do all the Committee's work in two annual sessions. Many members of the Committee, including himself, supported the Chairman's proposal to envisage adding additional working days.

33. Mr. SHAHI considered that it was premature to take Rwanda off the early-warning list. Some 80,000 people were currently detained there, charged with genocide. It was still not known what would happen in Zaire, where there were still Hutu refugees; the armed struggle against the Rwandan Government might continue, and many perpetrators of genocide were still at large. If the situation had returned to normal by August, it would not be necessary to spend too much time on Rwanda. The situation in Burundi, Rwanda and Zaire was interlinked, however, and compounded by the problems of the Hutu refugees and the detainees. On the basis of the Committee's dialogue with the representatives of Rwanda, he wondered what the Committee could do to expedite legal proceedings in that country.

34. The CHAIRMAN asked whether that meant that Rwanda should be kept on the urgent-procedure list and, if so, whether the Committee wished that country to send a delegation again to its August session. The Committee had to plan well in advance, as the presence of a Rwandan delegation would mean one less meeting to discuss something else.

35. Mr. SHAHI said that the answer to the Chairman's question would depend on the situation at the time. The situation in the Great Lakes region was critical, and Zaire was also on the list of States parties scheduled under the early-warning procedure. Moral pressure should be put on the Rwandan authorities to do something about the detainees.

36. Mr. de GOUTTES agreed that it would be unwise to remove Rwanda from the urgent-action list. The country should be kept on the list, without convening the delegation for the moment. That would depend on developments. If urgent situations were considered at the end of each session, then permanent missions could be asked early in the session to send a delegation.

37. Mr. RECHETOV pointed out that when the Committee had begun its consideration of urgent-action procedures, it had analysed the global situation at the beginning of each session. The present method of work, however, would make such procedures bureaucratic. The future could not be planned for, as no one knew what would happen. An example was the daily worsening of events in Afghanistan, particularly in the northern provinces, where the Taliban were expelling people to Tajikistan and Uzbekistan. Perhaps that trend would stop, but if the situation was exacerbated, Afghanistan would have to be considered under the urgent procedures as well. The list of States parties to be considered in that category must be finalized at the start of each session, so that the Committee could act quickly.

38. The CHAIRMAN said that the Committee had thereby concluded its consideration of planning for its fifty-first session, on the understanding that the views reflected in the summary records would be carefully vetted.

Appointment of country rapporteurs

39. The CHAIRMAN, referring to the recommendations for country rapporteurs for States scheduled for either initial or periodic reports contained in the Bureau's "non-paper", said that there had been no volunteers for Burundi; the secretary would therefore send further written requests to all members of the Committee. The list of country rapporteurs for the 15 States parties scheduled under the review procedure should be changed. For the three States parties which had never filed initial reports, the following rapporteurs had been designated: Mrs. Sadiq Ali for Guyana; Mr. Wolfrum for Liberia; and Mr. de Gouttes for Suriname. In connection with the States parties scheduled under the early-warning procedures, he announced that Mr. Yutzis had offered to act as country rapporteur for Israel.

40. Mr. GARVALOV volunteered to act as country rapporteur for Papua New Guinea if he received sufficient information from the secretariat.

41. Mr. de GOUTTES volunteered to act as country rapporteur for Haiti.

42. The CHAIRMAN asked whether Mr. Chigovera should serve as country rapporteur for Burundi.

43. Mr. SHERIFIS asked whether the same country rapporteur would handle a given State party if it was listed under more than one category, as was the case with Israel and Papua New Guinea.

44. The CHAIRMAN said that that practice was already followed, and referred Mr. Sherifis to the footnotes on page 6 of the provisional agenda (CERD/C/321).

45. Mr. de GOUTTES considered that that situation posed a problem. Once Burundi was listed under the category of States parties scheduled for either initial or periodic reports, it should be deleted from the category of States parties scheduled under the urgent-action procedures.

46. The CHAIRMAN said that brackets would accordingly be put around Rwanda in the urgent procedures category. Portugal, Costa Rica, Ghana and Uruguay had been scheduled by the Bureau for consideration under the review procedure, but should be removed from the list in paragraph 2.

47. Mr. GARVALOV said that the summaries of country reports prepared by the secretariat in 1996 had been very helpful; the work done by the Anti-Racism Information Service had also been excellent.

48. Mr. SHAHI said that, in conformity with the proposed amendment to the rules of procedure whereby any member who was a national of a State party under consideration by the Committee should refrain from participating, he had not participated in the discussion on Pakistan.

STATEMENT BY MR. RALPH ZACKLIN, OFFICER-IN-CHARGE, HIGH COMMISSIONER/CENTRE FOR HUMAN RIGHTS

49. The CHAIRMAN welcomed Mr. Ralph Zacklin (Officer-in-Charge, High Commissioner/Centre for Human Rights). He introduced the discussion by saying that States parties' legislation and policies in the field of racial discrimination had greatly improved since the entry into force of the Convention. There was better cooperation between States parties and the Committee with regard to implementation of the Convention; States parties had gained a better understanding of the Convention, and the Committee a better understanding of the problems of States parties, through the constructive, friendly discussion that accompanied the submission of periodic reports.

50. The Committee had found ways of inducing States parties to submit overdue reports; after five years, it notified such States that they would be considered and invited them to send a delegation. In more than half of the cases to date, the States in question had produced the overdue report and, if a report could not be submitted, many States had sent a delegation. Thanks to the Committee's urgent procedure, it had been able to give early warning of problems in Rwanda and Burundi and was attempting to do so in other trouble spots such as Yugoslavia, Bosnia, Croatia and the former Yugoslav Republic of Macedonia.

51. The Committee had, therefore, extended the potential of the Convention in imaginative ways. However, its workload had greatly increased. There were currently 148 parties to the Convention, far more than at its entry into force. Owing to the number of reports submitted to the Committee, two three-week sessions per year were no longer sufficient; a third was needed, although he realized that some members of the Committee did not support that view. The Committee also faced a resource problem since the secretariat was no longer able to send a representative for the entire duration of its sessions. However, the Committee gave the Organization good value for its money.

52. Mr. ZACKLIN (Office-in-Charge, High Commissioner/Centre for Human Rights) said he was fully acquainted with the Committee's work and appreciated its efforts. However, as to practical measures for assisting the Committee, he could only say that other United Nations committees had similar problems, as did the Office of the High Commissioner for Refugees. In the current climate of diminishing resources, the only solution to growing workloads was better organization and higher efficiency, which were among the objectives of the restructuring of the Organization as a whole and of the Centre for Human Rights in particular. He hoped that the arrival of the new High Commissioner for Human Rights would be accompanied by new and more effective restructuring of the Centre. Throughout the United Nations system, bodies that could demonstrate that they produced results would attract support. In closing, he conveyed the Secretary-General's best wishes to the Committee.

53. Mr. GARVALOV said he hoped that the Committee, which was the oldest of the treaty bodies, would be able to work with Mr. Zacklin in order to achieve closer cooperation with the rest of the United Nations system and the other human rights treaty bodies. The Committee sometimes had at its disposal information that might enable it to forecast future developments to the High Commissioner for Human Rights, who in turn would bring that information to the attention of the Secretary-General and, through him, to the other United Nations decision-making bodies. The Committee would cooperate fully with Mr. Zacklin in that undertaking.

54. Mr. de GOUTTES said it was important for the Committee to cooperate with Mr. Zacklin, as it had done in the past with Mr. Ayala Lasso, particularly in updating the urgent and early-warning procedures. In order to do so, the Committee needed full information from the Office of the Secretary-General. He suggested that the Committee should schedule a discussion of the urgent-action procedure with a representative of the Secretary-General at its next session.

CLOSURE OF THE SESSION

55. After the customary exchange of courtesies, the CHAIRMAN declared the fiftieth session closed.

The meeting rose at 4.45 p.m.

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the Elimination
of all Forms of
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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1215th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-17650 (E)

The meeting was called to order at 10.05 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fifty-first session of the Committee on the Elimination of Racial Discrimination.

ADOPTION OF THE AGENDA (provisional agenda item 1) (CERD/C/324)

2. The CHAIRMAN said that if there were no objections he would take it that the Committee wished to adopt the provisional agenda as contained in document CERD/C/324. Any objections to the annotations could be dealt with under the specific agenda item.

3. The agenda was adopted.

4. Mr. RECHETOV said that the Committee was starting its work at the same time as the Sub-Commission on Prevention of Discrimination and Protection of Minorities, whose work had already been reported on in the press. By contrast, the Committee received no publicity at all until the Chairman's press conference at the end of its session, and perhaps the time had come to change that situation. If more information, relating, for example, to the inter-sessional work and the Committee's new procedures and decisions were included in its main document, CERD/C/324, its work would be focused more on its primary goals and would become better known to the public at large and attract the attention of the press and the major champions of human rights. It might, for instance, spend some time discussing more persuasive ways of inducing countries to submit their reports, while maintaining its impartiality. Many States parties, including members of the former Soviet Union, neither submitted reports nor sent representatives to the Committee, despite sending large delegations to the Sub-Commission. If such States, one of which in particular came to mind, were to send a report and representatives to the Committee, they would no doubt be able to convince the Committee that the situation regarding national minorities in that country was perfectly satisfactory, or at least that measures were being taken to improve the situation. The fact that such States failed to cooperate with the Committee prevented it from properly fulfilling its basic mandate.

5. Mr. ABOUL-NASR requested that some time be given to discussing the Committee's concluding observations and ways in which the drafting might be improved. It should be made clearer, for example, which opinions were expressed by the Country Rapporteur on the basis of information personally obtained, and which were the views of the Committee. It should also be made clear when one or more Committee members failed to agree with the others.

6. The CHAIRMAN said that the points raised by Mr. Rechetov and Mr. Aboul-Nasr would best be discussed under agenda item 3.

REPORT OF THE CHAIRMAN (agenda item 2)

7. The CHAIRMAN said that his report, circulated under the symbol CERD/C/51/Misc.6) covered his meeting with NGOs, the programme of work for the fifty-first session and correspondence, to which should be added a letter

received from Mrs. Partsch, thanking the Committee for its message. At the NGO meeting in March 1997 there had been a proposal that NGOs should have an audience with the Committee as it did with the Committee on the Rights of the Child. He had conveyed the Committee's views on its relations with NGOs, its timetable pressures and its desire for written information from NGOs, and had proposed a further meeting towards the end of the current session. NGOs had requested that they be informed in good time of reports to be taken up and any timetable changes.

8. The unedited version of the report of the Independent Expert on the effective functioning of human rights treaty bodies (E/CN.4/1997/74), which had been circulated to members, would be considered under a separate agenda item. He had been informed that the Committee's proposals on studies by the Sub-Commission on Prevention of Discrimination and Protection of Minorities would be discussed by the Sub-Commission under agenda item 3.

9. The Committee took note of the report of the Chairman.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

10. Mr. HUSBANDS (Acting Secretary) informed the Committee that Switzerland had asked for a postponement until the fifty-second session in March 1998, and the Philippines, for which Mr. Garvalov was Country Rapporteur, had been scheduled in its place.

11. All reporting States had confirmed their participation in the fifty-first session apart from Cambodia, whose Mission in Paris had neither replied to letters nor requested postponement. The Committee would therefore have to decide whether its report should be considered in the absence of a delegation, or postponed.

12. Among the list of review countries, Cuba, Lebanon and Yugoslavia had filed reports with the Committee and should, in accordance with normal practice, be withdrawn from the review procedure.

13. He drew attention to Norway's brief updating report which had been received on 20 June 1997 and had not been sent out because of the time needed for processing and translation.

14. Members who had not yet responded to the Chairman's questionnaire regarding the report of the Independent Expert, Mr. Philip Alston, were encouraged to return their questionnaires to provide a better idea of the views of the Committee as a whole.

15. Mr. Ferrero Costa would be absent during the fifty-first session, having been nominated Foreign Minister of Peru, and Mr. de Gouttes had taken his place as Country Rapporteur for Argentina.

16. A new High Commissioner for Human Rights had been named; the Committee would be given further information the following day when Mr. Zacklin, Officer-in-Charge, High Commissioner/Centre for Human Rights, would address the Committee.

17. Two Danish NGOs had invited interested Committee members to a briefing on Wednesday, 6 August, prior to consideration of the Danish report, and had submitted documentation. Representatives of a Norwegian NGO had also submitted documentation and would brief interested Committee members on Thursday, 14 August, prior to the consideration of Norway's periodic report.

18. The Republic of Cyprus had ratified the amendment to article 8 of the Convention.

19. Mr. SHERIFIS said that the report of the Independent Expert, Mr. Philip Alston, sent by fax, had unfortunately been illegible. His response to the Chairman's questionnaire would be submitted shortly.

20. He welcomed the news of Mr. Ferrero Costa's nomination as Foreign Minister of Peru and hoped that the Chairman would write and congratulate him on behalf of the Committee.

21. The points raised by Mr. Rechetov were important and merited discussion. The Convention itself made it clear that the Committee's purposes should be disseminated to the extent possible and the Committee should therefore consider how best to achieve that purpose, bearing in mind that informing the public at large of the Committee's work was one way of achieving implementation of the Convention. The points raised by Mr. Aboul-Nasr also warranted discussion.

22. The CHAIRMAN said that he took it that the Committee would like him to write to Mr. Ferrero Costa in the terms suggested.

23. On the question of Cambodia, he suggested that the Committee should take no action until Mr. Yutzis, Country Rapporteur for Cambodia, could advise the Committee whether or not the report should be considered *in absentia*.

24. Mr. WOLFRUM endorsed the comment made by Mr. Sherifis with regard to Mr. Alston's report and recommended that time be set aside to discuss it fully at the present session. The questionnaire would throw no light on members' views of the report, which tackled very important issues that could have some bearing on the future of the Convention and even of the Committee itself.

25. Mr. Ferrero Costa had, by telephone, sent his best regards to all members of the Committee, had expressed regret at being unable to attend its fifty-first session, but had promised to participate in its spring 1998 session, regardless of his other duties.

26. Some of the points made by Mr. Rechetov had been raised during the Committee's discussion on the extent to which successor States were obliged to accept human rights agreements which had previously been valid for part or parts of their populations. He fully endorsed Mr. Rechetov's views and would comment at greater length at the appropriate time.

27. The CHAIRMAN said that he intended to set aside time on the last Friday morning of the session to discuss the Committee's response to Mr. Alston's report. The questionnaire was not intended as an alternative to a Committee discussion but to identify a general trend of opinion and promote discussion.

28. Mr. AHMADU said that before writing to congratulate Mr. Ferrero Costa, the Committee should be satisfied that the appointment processes had been completed.

29. The points raised by Mr. Rechetov were important and should be discussed before the last day of the session.

30. Mr. GARVALOV asked what action was to be taken in connection with the three States parties due to be considered under the review procedure but which had since filed reports. As Country Rapporteur for Lebanon, his preference would be to postpone discussion of Lebanon's report to the next session as he had not yet seen it.

31. He fully agreed with the points raised by Mr. Rechetov and Mr. Aboul Nasr and hoped that time could be found to discuss them at the present session.

32. The status of Mr. Alston's report was still unclear and he wondered whether it had been submitted formally to the Commission on Human Rights for consideration at its next session and forwarding to the General Assembly. The report contained fundamental proposals which could have repercussions on the treaty bodies in the twenty-first century, including proposals that they should be replaced by one or two larger bodies. Other parts of the report, including a comment that the treaty bodies had not yet discussed the report, also merited debate. Why Mr. Alston had not approached the treaty bodies could be discussed at a later stage. The report should in any event be considered before the scheduled date to give the Committee time to decide on its response.

33. Mr. HUSBANDS (Acting Secretary) said that approximately two months were required to edit the reports of States parties and translate them into the Committee's working languages. The Committee might therefore wish to conduct an abbreviated review lasting up to an hour of the reports of Cuba, Lebanon and Yugoslavia, or it could postpone them to the next session.

34. Mr. GARVALOV, supported by Mr. SHERIFIS, proposed that Lebanon's report be deferred until the next session.

35. Mr. van BOVEN asked whether, in view of Mr. Ferrero Costa's intention to attend the Committee's next session, the Committee could take it that article 8, paragraph 5 (b) of the Convention did not yet apply.

36. He, too, had received an illegible copy of Mr. Alston's report. Rather than discussing points in isolation, it would be more useful to consider them in the context of the overall report, which should be discussed before 19 August.

37. As Country Rapporteur for Cuba, he proposed that the Cuban report and that of Yugoslavia should, like Lebanon's, be deferred to the next session to allow time for proper processing.

38. The CHAIRMAN said that article 8, paragraph 5 (b) of the Convention was not applicable in Mr. Ferrero Costa's case, although it might become so in the future.

39. The Committee had expressed the desire to discuss Mr. Alston's report (E/CN.4/1997/74) earlier in the session than currently scheduled. If the country rapporteurs for Cuba, Lebanon and Yugoslavia agreed that the reports of those countries should be postponed until the next session, the time saved could be used for the consideration of Mr. Alston's report.

40. Mr. de GOUTTES congratulated Mr. Ferrero Costa on his advancement and declared himself ready to take over as Country Rapporteur for Argentina. Article 8 of the Convention did not apply to Mr. Ferrero Costa since he had not officially resigned as a member of the Committee and, indeed, apparently hoped to attend the next session.

41. In respect of Mr. Alston's report, he shared Mr. Garvalov's doubts about the formal status and scope of the report, since it had been prepared by an independent expert rather than an official United Nations body.

42. Any changes to the proposed timetable should be announced in good time to enable members to prepare the points they wished to raise.

43. Mr. RECHETOV said that Mr. Alston's report raised grave issues which might actually call the existence of the Committee into question. The Committee could easily spend half the session discussing its implications, and he therefore considered that the original date in the third week of the session should be retained in order to prevent the matter intruding upon more important business.

44. Mr. SHERIFIS pointed out that Mr. Ferrero Costa's case was not without precedent: to his knowledge, two experts had served as members of the Committee while also holding ministerial office in their own countries.

45. Mr. WOLFRUM said that the report of Yugoslavia contained a great deal of interesting material which the Committee would need to study in detail, and was therefore in favour of postponing consideration of the report until the next session.

46. Mr. YUTZIS agreed that the reports of Cuba, Lebanon and Yugoslavia should be postponed until the next session of the Committee.

47. Speaking as Country Rapporteur for Cambodia, he said that the situation in that country, and indeed in the region as a whole, was extremely complex. It was not clear to which authority the Committee should address its comments, or whether there was any likelihood of action being taken. There was no point in considering the situation in Cambodia under such circumstances, and he therefore suggested that it should be postponed.

48. Mr. SHAHI said that, although the situation in Cambodia was certainly complicated, there did exist a de facto authority which appeared to be in control of the country, and it would do no harm for the Committee to remind that authority of its commitments under the Convention. However, he would

defer to the opinion of the Country Rapporteur. A similar situation had prevailed some years before in Afghanistan: what had the Committee done then?

49. Mr. van BOVEN said that a complicated situation prevailed in many countries, including those due for consideration under the early warning procedure. In the case of Cambodia, since the Committee had actually received a report, it should consider it even in the absence of the Cambodian delegation. He suggested that yet another reminder should be sent to the Cambodian Embassy in Paris.

50. Mr. CHIGOVERA asked whether the Committee wished to postpone its consideration of the situation in the Democratic Republic of the Congo (formerly Zaire), which had been scheduled under the early warning and urgent procedures (agenda item 4). The situation in that country was changing constantly and dramatically, and he considered that it should be allowed to settle down before any information was requested, particularly since there had been no actual reports of violations of the Convention.

51. Mr. WOLFRUM, speaking as Country Rapporteur for the Democratic Republic of the Congo, said that there had been reports of disappearances, although their reliability was unproven. However, a mission had been set up to investigate allegations of human rights violations before and during the civil war. He suggested that the Committee should gather together all available information on the situation in the Democratic Republic of the Congo, both from within the United Nations and from outside, and discuss the situation in the third week of the session, as scheduled.

52. Mr. DIACONU saw the current conflict in Cambodia as a fight for power with no ethnic element. It was not appropriate, therefore, for the Committee to consider that country under its early warning and urgent procedures, although other human rights bodies might choose to do so.

53. Mr. AHMADU noted that the situation of Liberia was due for review because its initial report was excessively overdue. Perhaps, however, the Committee should make allowances in view of the recent accession of a new President who had undertaken to fulfil the country's obligations under international human rights instruments.

54. He did not think that the situation in Cambodia should be discussed under the Committee's early warning and urgent procedures. Since Cambodia had actually submitted a report, it should be discussed in the ordinary way.

55. Mr. GARVALOV said that it was important to distinguish between the early warning and urgent procedures, under which the situation in a country should be discussed even if no information was forthcoming from the Government concerned, and the procedure concerning overdue reports. In the latter case, it was justifiable to defer consideration of a report which had only just been received. If, on the other hand, no report at all was forthcoming, then the case should be discussed in the light of other information available, in accordance with the established procedure.

56. Mr. WOLFRUM said that the new President of Liberia had included foreign observers in the committee investigating human rights violations, and had

talked encouragingly about fulfilling his country's international human rights commitments. He therefore considered that Liberia's case should be deferred until the new Government had had a chance to submit the overdue reports. The situation in the Democratic Republic of the Congo was different, and he felt that it should be discussed in detail.

57. Mr. YUTZIS, speaking as Country Rapporteur for Cambodia, said that it was not clear whether the de facto Government in Cambodia would be able to keep its hold on power. In some parts of the country it was impossible to say which of the various factions could be expected to implement the law. Since it was not clear to whom the Committee should be addressing its comments, it would be better to defer consideration of the situation in Cambodia.

58. The CHAIRMAN invited the Committee to continue its consideration of the best way of publicizing its activities, a point raised by Mr. Rechetov.

59. Mr. RECHETOV said that the best possible boost to the Committee's work would be for every State party to submit its reports in good time. Were reminders still sent to States parties whose reports were overdue?

60. Mr. HUSBANDS (Acting Secretary) said that reminders were sent every November to all States parties whose reports were overdue - a measure which had proved quite effective.

61. Mr. WOLFRUM said that it was even more important to encourage States which had not yet done so to ratify the Convention. Mr. Alston's report suggested a number of ways of doing so, but he was not convinced by them. It was also important to distinguish between States which had never ratified the Convention and newly independent States which had previously been covered by the provisions of the Convention, but had failed to ratify it on becoming independent. It seemed likely that the number of people living under the protection of the Convention had declined, for exactly that reason.

62. The CHAIRMAN said that the Secretariat document on the situation of successor States should be updated and reissued.

63. Mr. ABOUL-NASR said that the United Nations Information Centre in Cairo apparently did not have even one copy of the Convention. Many of the Committee's problems concerned communication with countries without representation in Geneva. He had made three suggestions in that regard: the Committee could meet in New York to discuss only those States parties without representation in Geneva; the Committee could arrange for meetings in the field with the regional organizations of the United Nations to discuss regional problems concerning the Convention, in public; and the Committee could contact regional human rights organizations to exchange views and establish a dialogue. That was in addition to a closer exchange of views with NGOs in the field, with a view to publicizing issues of racial discrimination jointly.

64. Mr. de GOUTTES said that Mr. Wolfrum's remarks on why there had not been more ratifications of the Convention in recent years raised a serious issue, not just of publicity, but also of substance. There were both legal problems, such as the succession of States, and political ones. Possibly the increase

in ethnic, racial and immigration problems was causing certain States to adopt a more prudent attitude towards certain provisions of the Convention. If that were so, the reasons for that situation must be ascertained. Thought should also be given to the reasons for States parties' reservations and to some States' reluctance to implement specific provisions of the Convention.

65. Mr. SHERIFIS agreed with Mr. Wolfrum that it was important to encourage new ratifications. The Committee needed to examine what it could do at the national level to encourage publicity about its work and the substance of the Convention. States parties were asked to inform the Committee of their publicity, but very little was being done, and the issue needed more emphasis. At the international level, the Committee had asked the Department of Public Information for assistance.

66. Regarding States parties' reporting obligations, the Committee had decided to request a comprehensive report every four years and an updating report every two years, but the message did not seem to have been properly received. He agreed with Mr. Aboul-Nasr on the merits of holding meetings in New York, but the financial implications had put paid to that idea in the past. That argument could no longer be pressed, however, since the Committee could now look forward to a new situation with, in particular, the amendments to article 8, paragraph 6, of the Convention. That being said, the amendments, though adopted by the General Assembly, had not yet entered into force since an insufficient number of States parties had so far accepted them, and that would take several more years. If it were only a small number of States parties whose financial problems prevented them from sending large delegations to Geneva, perhaps some financial sacrifice could be made in order to allow them to attend. It was a good idea to hold occasional meetings of the Committee in the regions, but if the Committee could not even agree to meet in New York once in a while, how could it go to the regions? There would be no problem if the United Nations regional offices paid the Committee's expenses.

67. The system of rapporteurs liaising with other bodies was clearly not working very well, Mr. de Gouttes having been the only one to have done an excellent job in liaising between the Committee and the High Commissioner for Human Rights. His own offers to arrange for a meeting between the director of legal affairs for the Commonwealth Secretariat and the Committee had been turned down. An exchange of views was needed among Committee members as to what was advisable and feasible.

68. The CHAIRMAN said it should be noted that other human rights treaty bodies held at least one meeting a year in New York.

69. Mr. AHMADU said that publicity was non-existent in many African capitals. He had had difficulty in explaining the Committee's work to members of the press in Nigeria and had found that the United Nations Information Centre in Lagos did not even have a copy of the Convention. It was important to inform staff at the respective foreign ministries about the Committee and the Convention, and that was the responsibility of the Secretariat. Other treaty bodies were not publicized at all in certain countries. He agreed on the need for special meetings for countries without representation in either Geneva or New York. There was an African Centre for Democracy and Human

Rights Studies in the Gambia, in which members of the Organization for African Unity (OAU) participated on a rotating basis. The Committee needed a link with that body and should invite it to attend certain meetings, possibly to discuss overdue reports. It would be easier for the Centre to go to New York than to Geneva.

70. Most treaty monitoring bodies required reports every two years. The Committee should examine its own periodicity requirements, as many States parties felt that international bodies were asking for too many reports and that the Committee's report was one of the most difficult to prepare. Its reporting requirements were becoming increasingly demanding and the Committee should try to simplify them.

71. The CHAIRMAN said that delegations did not come before the Committee to defend their reports and that there was no adversarial relationship between the two.

72. Mr. YUTZIS said an in-depth analysis was needed of the possible reasons for non-ratification of the Convention and the related question of reservations. He was also concerned about the small number of countries making the declaration under article 14. The problem raised by Mr. Rechetov was not one of publicity, but rather of a communication strategy. The Committee could not afford to let its work go unnoticed, and while it was an exaggeration to say, as the Argentines did, that reality was an invention of the media, it was true that the Committee did rely substantially on the media. Although it was not possible for the Committee to have frequent meetings in the regions, it should do so once in a while, and he agreed with Mr. Aboul-Nasr that if such meetings could be part of a communication strategy the Committee would have that much greater impact.

73. Mr. ABOUL-NASR, clarifying several points he had raised earlier on concluding observations, said that in drafting the concluding observations, the Committee should comply fully with the requirement in article 9, paragraph 2, of the Convention that its report to the General Assembly should include any comments from States parties. In all fairness to States parties, they should be given the opportunity to comment on criticisms expressed in the concluding observations of which they might not be aware since they had been voiced by the Committee in closed meetings. Secondly, the Committee should not state in its concluding observations that it expressed concern or was of a particular opinion unless there had been a decision or a clear consensus to that effect, and certainly not if, for example, the Rapporteur alone or only one or two members had expressed that opinion. Thirdly, both the summary records and the concluding observations should give equal and fair attention to all opinions, rather than giving extensive coverage to the Rapporteur's opinions at the expense of other viewpoints, as was now the case. They should clearly differentiate between the views of some members and those of the Committee as a whole.

74. Mr. GARVALOV said that members should not be restricted to addressing only one or two points on a report and suggested an annual general debate to thrash out contentious issues.

75. The low accession rate might be explained partly by the fact that the Vienna World Conference on Human Rights had set universality targets only for the International Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Discrimination against Women.

76. It was not for the Committee to ascertain the reason for the low accession rate, but it was up to the States parties to discuss that and other issues, including universality and compliance, at their regular meetings. What good was universality if only a few States complied with the terms of the Convention?

77. He commended the Secretariat on its work in informing the press about the work of the Committee but was disappointed at the lack of reciprocity from journalists.

78. Mr. SHAHI said the Committee could not expect to generate publicity unless it was linked to areas of interest to the international press such as the situation in Bosnia and Herzegovina and the Democratic Republic of the Congo. He suggested that the Chairman hold press conferences at least twice during each session whenever the Committee had substantive remarks to make about crisis situations.

79. He concurred that the situation in Cambodia was one of human rights violations and not racial discrimination. The Vietnamese in Cambodia continued to suffer discrimination at the hands of provincial and municipal authorities, who had been registering them as illegal aliens. Technically speaking, the Committee was entitled to make comments on the case of Cambodia, providing all members agreed to do so.

80. On the matter of the Democratic Republic of the Congo, he referred to an interview with the Vice-President of Rwanda, who had expressed disillusionment with the apathy of the international community and the Security Council. There were allegations of massacres of Hutus in the eastern part of the Democratic Republic of the Congo, but the President, Mr. Kabila, objected to the Secretary-General's appointment of a representative for a fact-finding mission there. Although the situation was being dealt with at the Secretariat level, it could still be reviewed by the Committee in a bid to attract the interest of the press in the work of the Committee.

81. Referring to Mr. Aboul-Nasr's suggestion about regionally held meetings, he proposed further discussion despite the Secretary-General's negative-growth budget target.

82. Members of the Committee should be free to express their views on concluding observations and recommendations made by country rapporteurs and he supported any subsequent efforts to make observations and recommendations more representative on the views of the Committee. He proposed that any "recommendations" made in the concluding observations on a report of a specific country be referred to as "suggestions" so as to avoid any confusion.

83. Mr. van BOVEN said that the Convention was no longer considered an instrument of foreign policy. States were exercising caution because of the potentially explosive domestic implications of its implementation.

84. The appointment by the Commission on Human Rights of a Special Rapporteur on contemporary forms of racism and racial discrimination, xenophobia and related intolerance and its calls for new approaches suggested that doubt was being cast on the relevance and usefulness of the Committee's work. Some parts of the Convention, notably articles 11 to 14, were underutilised or not used at all. Some matters which might have been referred to the Committee, such as indigenous issues, were being referred to the Human Rights Committee. He wondered whether the Committee had not been sidelined even though its concerns were with mainstream issues affecting States parties.

85. He endorsed Mr. Aboul-Nasr's call for more outreach, despite budgetary constraints, and hoped the Committee could enlist the help of the new High Commissioner for Human Rights. He stressed the crucial importance of drawing on the expertise of national as well as international NGOs and urged the Committee to attend more hearings at which they were present.

86. Concluding observations were useful as monitoring tools, both for treaty bodies and States parties. He agreed that they should reflect the collective views of the Committee and that country rapporteurs should be alerted to varying points of view, which in turn should be given appropriate coverage, but underscored the expertise of the country rapporteurs and the validity of their comments. It was only natural that they should be given due credit for the time and energy they invested in their work and the reliability of their analyses. Like Mr. Aboul-Nasr, he hoped there would be further debate on ways to encourage States parties, under article 9, paragraph 2, to give their comments.

87. Mr. LECHUGA HEVIA said that, because of limited financial resources, the Committee could not expect to meet in New York in the near future, but personal contact between the Chairman, mandated by the Committee, and representatives of States parties during the General Assembly session in New York could be useful in promoting dialogue on delays in reporting.

88. He endorsed the call for further discussion at the current session on giving States an opportunity to respond to the Committee's concluding observations.

89. Mr. WOLFRUM expressed agreement with Mr. Aboul-Nasr's comments about concluding observations. They should be regarded as a tool for furthering dialogue and he would therefore actively encourage States to give their comments for submission to the General Assembly along with the Committee's observations. Such comments could then be a focus of subsequent discussion with the reporting State.

90. As to whether a vote should be taken on concluding observations, he felt that the question should be decided ad hoc. He agreed that summary records should reflect the plurality of views within the Committee and called for a narrower focus in concluding observations so that States could target their replies accordingly.

91. Mr. SHERIFIS supported the view that States parties' opinions on the concluding observations should be aired. Since the delay of States in responding to the Committee led to a breakdown in dialogue, ways should be found to enable them to reply to criticisms and recommendations.

92. The press releases should present a more balanced picture of the views of country rapporteurs, State representatives and other members of the Committee.

93. Mr. VALENCIA RODRIGUEZ endorsed the call for States' right to make comments on concluding observations and for more balanced reporting. The reference to "suggestions" and "general recommendations" in article 9, paragraph 2 was open to interpretation as referring either to all States parties or to each report submitted to the Committee. He suggested that the second interpretation should be accepted in the interest of dialogue.

94. If there was consensus, it should be reported. Likewise, if there was none, it should be reflected in the concluding observations, and a vote should be taken and duly recorded. The summary records of the meetings should moreover provide a more balanced view of all members' opinions and comments.

95. Country rapporteurs should concentrate more on the Committee's terms of reference and the Convention than on areas dealt with by other Committees.

96. Better publicity involved more than just better press releases. The international press considered the Committee's work too legalistic and technical and not conducive to extensive coverage. The Committee might consider meeting occasionally in regions generating most of the problems facing the Committee and of interest to the press, although the financial implications would need to be considered.

97. Turning to the reaction of States parties to the Committee's suggestions or requests, it should be borne in mind that there were political issues and sometimes conflicting interests involved. Perhaps the matter of States parties' responsibility could be dealt with in the draft organizational reform proposed by the Secretary-General to the General Assembly, which might recommend that States parties abide by their obligations under the Convention.

98. Mrs. ZOU Deci requested a final decision on the Committee's consideration of the report on Cambodia. The role of the Committee was to promote dialogue but, since it seemed the Government would not be able to send a representative, there would be no point to discussing the report since the key issue in Cambodia was not ethnic conflict.

99. The question of concluding observations posed problems and warranted further discussion. Opposing views should be reflected in the concluding observations. States parties should be allowed to express their views and correct an unfair situation in which members of the Committee sat as judges and States parties had no right of reply.

100. Finally, she suggested that the concluding observations should be disseminated on the Internet and thus invite reactions from the wider public.

The meeting rose at 1.10 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1216th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-17664 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5)

Eleventh and twelfth periodic reports of Algeria (CERD/C/281/Add.3)

1. At the invitation of the Chairman, Mr. Dembri, Mr. Soualem and Mr. Hassaïe (Algeria) took seats at the Committee table.

2. Mr. DEMBRI (Algeria), introducing the eleventh and twelfth periodic reports of Algeria, consolidated in a single document, said that Algeria's presence testified to its commitment to the principles of equality and solidarity, justice and progress, tolerance and mutual respect in the harmonious interplay of cultures and civilizations - all of which had been affirmed in the first Constitution of independent Algeria, in September 1963, in which, even before the United Nations Declaration in November 1963 and the Convention in November 1965, the country had undertaken to combat all forms of discrimination, including racial and religious discrimination. After 132 years under the colonial yoke, dispossessed and marginalized, the Algerian people had moved to the forefront in the struggle for national liberation, the elimination of all forms of discrimination and the realization of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples. It was therefore completely natural that Algeria, defined as a land of freedom and dignity in the Constitution of November 1993, should subscribe without reservation to the Convention, which it incorporated into domestic law with the same status as most of the other international human rights instruments, and that it should make the declaration under article 14 of the Convention.

3. In its previous reports, from 1992 and 1995, Algeria had pointed to the changes to the Constitution and the law, aimed at ensuring equality, social justice and solidarity and at responding, regardless of political vicissitudes, to the basic needs of the citizen by guaranteeing him the enjoyment of fundamental rights. It had first proved necessary to reduce the imbalances inherited from the colonial regime by respecting regional priorities in the remotest parts of the country. Thus, the Trans-Saharan Highway had been built, several thousand kilometres long, along with the "Green Barrier" to combat desertification, among numerous other works of infrastructure.

4. Similarly, it had been logical for Algerian society in 1989 to replace the single-party regime with a political and economic system characterized by pluralism and a market economy as the driving forces behind social change, through individual initiative and civil society, thereby prefiguring the major upheavals that had followed the end of the cold war.

5. The affirmation of the primacy of law led in 1992 to the establishment of the National Human Rights Commission (ONDH), an independent body in touch with the people. That enormous effort to promote human rights was nonetheless facing forces of destruction, terrorist violence and extremism which, under the pretext of religion, was the cause of many murders. The national recovery effort following the National Conference of 1994 was aimed at preserving the balance in Algerian society.

6. In bringing President Liamine Zeroual to power in 1995, in the first multi-party presidential elections in its history, Algeria had reaffirmed the rule of law and the principles proclaimed in the Universal Declaration of Human Rights, including equal rights and freedoms without any discrimination on the grounds of birth, race, sex, opinion or any other personal or social status or circumstance, an idea which is also to be found in article 29 of the revised Constitution of 1996. Keen to promote a new social dynamic, the country had committed itself to concrete action based on the separation of powers, checks and balances, mediation and remedies. It had sought to enhance the value of the component parts of the national personality, while eliminating once and for all simplistic anachronisms, exploitation and, generally, all obstacles to the development of the individual and to everyone's effective participation in political, economic, social and cultural life. The free choice of the Algerian people, who had just elected the first multi-party National People's Assembly, was evidence of the development of the democratic process in Algeria, combined with a collective commitment to realizing the ideals of justice, freedom and peace worldwide.

7. Mrs. SADIQ ALI (Country Rapporteur) said she had listened with interest to Mr. Dembri's presentation of the situation in his country. Recalling the Committee's concluding observations after the consideration of Algeria's tenth periodic report (CERD/C/209/Add.4) in 1993 (CERD/C/SR.962, 963 and 983), and again in 1994, she said the Algerian Constitution of 1989 envisaged a transition towards a pluralist republic, but the democratization process had been suspended in 1992, when the army had forced President Chadli to resign and had cancelled the second round of parliamentary elections, which the Islamic Salvation Front (FIS) had been poised to win, and had installed a High State Committee, which had banned the FIS and jailed most of its leaders. The cancellation of the 1992 elections had escalated the fighting between the security forces and armed Islamist groups seeking to overthrow the Government and impose an Islamic State. According to a United States report of January 1997, there was reason to hold the security forces responsible for extrajudicial killings, disappearances, torture, arbitrary arrests and other practices against persons suspected of being involved with armed Islamist groups, while the judiciary's authority had been restricted by unconstitutional executive decrees and the people's freedoms had been flouted. Armed Islamists had stepped up their insurgency since the cancellation of the 1992 elections, targeting government officials and families of security service members as well as political and religious figures and others.

8. The powerful FIS had promised an end to rampant corruption, reconstruction of the economy and social justice for the legions of unemployed and disadvantaged. However, the collapse of that movement after being outlawed in March 1992 had led to the emergence of the Armed Islamic Group (GIA), whose leader, Antar Zouabri, had reportedly been killed in July 1997.

9. In 1994, a National Transitional Council had been appointed with the support of the armed forces and, after his election in 1995, President Zeroual had begun a new dialogue with the political class and organized a referendum in November 1996 to amend the Constitution. Under the new Constitution, the President's powers were limited to ruling by decree in special circumstances and in some cases to vetoing Acts of Parliament. It banned religious parties

(seven political parties had been banned for failing to abide by that law), even though Islam was the State religion, and it established a proportional, bicameral system of representation, with one third of the second chamber members being appointed by the Head of State. The opposition viewed that chamber as a way of blocking the activities of the National Assembly, which was itself elected by universal suffrage. By presidential decision, political parties would henceforth need official approval from the Ministry of the Interior and must have 25 founders from across Algeria.

10. On 5 June 1997, 40 parties had fielded 380 candidates for the parliamentary elections, which would be followed by local and municipal elections. Following the June elections, which were monitored by United Nations observers, a coalition cabinet had been formed and included Islamic moderates. The two main Islamic parties had participated in the elections, which had been followed in July by the release of two FIS leaders, Abassi Madani and Kader Hakhami, although a third, Ali Benhadi, was still in prison.

11. Political pluralism and respect for the Constitution and the laws of the Republic were encouraged, and a new, "moderate" national police had been created. President Zeroual was still grappling with terrorism, which was destroying any hope of real economic progress, and his strategy was to turn Algeria into an authentic pluralistic democracy while at the same time weakening the FIS, which he had not yet succeeded in doing, as the constant carnage showed.

12. Contrary to article 1 of the Convention, the definition of racial discrimination appearing in article 28 of the Algerian Constitution did not mention "colour, descent or ethnic origin". Would it be possible for the Government to include those terms when the Constitution was next amended? A representative of Algeria had told the General Assembly that collection of information on ethnic origins of peoples was contrary to Islamic ethics (A/40/18, para. 19). However, it was essential to have demographic data on the ethnic origins of peoples if racial discrimination was to be eliminated.

13. With regard to article 1, paragraph 2, of the Convention, the Office of the United Nations High Commissioner for Refugees (UNHCR) had reported in March 1996 that it had signed a tripartite agreement with Algeria and Niger in Niamey with a view to repatriating the Niger refugees in Algeria and integrating them socially and economically in Niger. What progress had been made? Were there any Niger refugees still in Algeria? Similarly, the President of Mali had tried to convince Malians of Tuareg or Moorish origin living as refugees in Algeria to return home, now that peace had been restored there. What had been the result? According to Amnesty International, Moroccan soldiers who had fled to Algeria had subsequently been repatriated. Had their fears of being tortured upon return to their country been taken into account by the Algerian authorities?

14. In connection with ethnic minorities, she wished to know what was meant by the "clans" who, according to the newspaper El Watan (editorial in January 1996), had put their weight behind certain ministers. In which regions did the Mozabites and Tuaregs reside, and what were their numbers? The rigorous conditions in the Sahara had led to a division of the population

into settled cultivators, who occupied the oases, and nomadic pastoralists. Were they two different ethnic groups? What were the tribes on the edge of the Sahara? Algeria also recognized its Berber culture, although it believed that "the written language was not sufficiently structured for it to be taught in schools" (A/48/18, para. 77). Why had it taken so long to make it a living language? In December 1990, the National Assembly had decided that, after 1997, Arabic would become the official language and that the use of French and Berber by private companies and political parties would be subject to heavy fines. What was the Government's position on the subject? It appeared that Berber had been recognized as one of the foundations of Algerian identity, together with Arabic and Islam, in which case the Government should be congratulated, but clarification was nonetheless needed on the status of the Berber population.

15. In paragraph 61 of its tenth periodic report, Algeria had stated that all laws and regulations of a colonial or discriminatory nature had been abrogated. With regard to article 2.1 (c) of the Convention, had the Government felt the need in the post-independence period to amend or rescind any laws or regulations which had the effect of creating or perpetuating racial discrimination? As to article 2.1 (e), if the Algerian people could theoretically be described as homogeneous (para. 63 of the tenth periodic report), the reality was quite different, with Christians, Jews, Africans and Berbers coexisting, sometimes uneasily. If organizations could be formed to encourage a better understanding and interaction among those groups it would lead naturally to national integration, especially after the Islamist turmoil the country had been going through.

16. In relation to article 3, were people living in the Sahara able to move around between regions, or were they confined to an enclave existence?

17. The Committee had already drawn attention to the obligation under article 4, to take legislative measures which it deemed especially important to prevent the dissemination of racist ideas and incitement to racial hatred. It should be recalled that the relevant articles of the Penal Code cited in paragraph 71 of the tenth periodic report did not have the effect of declaring illegal or prohibiting any propaganda organizations or activities and did not specify any punishment for offences. The legal provisions covering trade unions, laudable as they were, did not seem to prescribe any punishment for incitement to racial discrimination. In that regard, it was useful to bear in mind General Recommendation VII, which stressed the mandatory character of article 4.

18. The civil, political, economic and social rights under article 5 had been curbed, probably because of Islamist extremist activities. The independence of the judiciary was guaranteed, but additional information was needed on the revision of the judiciary regulations announced by Algeria to the Human Rights Committee, as well as on the training and political rights of judges and the establishment, membership and powers of the National Committee against Torture and the Constitutional Council. Was the Berber community benefiting from training programmes organized for Arabic-speaking trainee magistrates? During their training period, were they made conversant with the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the Convention?

19. The other civil, political, economic, social and cultural rights enunciated in article 5 were theoretically protected in Algeria but, according to such reliable sources as the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on that question, the Special Rapporteur on torture, the organizations Europa and Amnesty International, the newspaper Egyptian Gazette, and the radio stations Radio Alger and BBC Monitor, theory had no bearing on reality. Arbitrary detentions, disappearances and torture were being practised by the Algerian forces and Islamist extremists. The Special Rapporteur on torture had also reported on cases of the torture of detainees - with the use of such methods as the chiffon, blowtorch and electric shock. According to the Special Rapporteur on extrajudicial, summary and arbitrary executions, there were many such cases. Admittedly, the special courts established to try cases involving "terrorism and sabotage" had been abolished and the presumption of innocence was guaranteed by the Constitution, as was the right of defence. However, according to Amnesty International, the security forces had killed thousands of people, many of them extrajudicially; hundreds of people had been arrested and had subsequently disappeared, and allegations of torture and ill-treatment were not investigated.

20. In view of President Zeroual's policy of dialogue, was there any possibility of commuting the death sentences of more than 1,000 Islamic fundamentalists to life imprisonment? Was the age of criminal responsibility still 16, whereas in 1993 it had been 18? Did the Government plan to repeal the state of emergency declared in 1992, theoretically lifted in 1996 but then incorporated into permanent legislation; and what rights had ceased to be protected as a result? Protection of the civil rights proclaimed in article 5 (d) of the Convention did not seem to have improved in the slightest: some journalists had been placed under "judicial control"; travel in the south was subject to restrictions; it appeared that the right to Algerian nationality was not automatically guaranteed to the children of foreigners who married Algerian citizens; the provisions on marriage and the family seemed clearly unfavourable to women, who were still supposed to provide a dowry and could not marry non-Muslims, whereas men could; and women also remained under the legal guardianship of their husband or a male relative.

21. With the agrarian revolution, and particularly the redistribution of State- and foreign-owned land, the Government had apparently intended to guarantee everyone the right to property, but in fact, it was not actually known who had benefited from the redistribution of land nor how the lives of the nomads had been affected.

22. With regard to freedom of religion, she referred to the seven Trappist monks who had been abducted from their Algerian monastery by the GIA, which had vowed to eradicate all "Jews, Christians and polytheists" in Algeria, and to the 116 foreign nationals who had been killed by Islamic extremists since 1993, along with the Bishop of Oran, Pierre Clavère. Those tragedies had occurred despite the President's promise to restore order through dialogue and reforms.

23. Freedom of the press was far from a reality. The authorities prevented the publication of certain types of information - including information on

security, human rights or civil disturbances - and protected members of the Government from criticism. Dozens of journalists had been murdered since 1993. Had the Government made any efforts to identify the perpetrators? Did it provide any specific protection for journalists?

24. The protection of the economic, social and cultural rights enunciated under article 5 (3) was also cause for concern. Unemployment was rising, and the agrarian reforms were having an adverse impact on the Berber and other minorities, who had been supplanted by a class of "vegetable millionaires" who had monopolized the supply of fresh vegetables. Algeria was going through a worsening housing crisis, and the Committee was unaware whether any plan existed to address the problem. As for health care and education, the health budget allocations would not meet the needs of the population, the pressure of the International Monetary Fund to do away with social security would have an adverse effect, and adult illiteracy - which was quite probably due to a high drop-out rate - had grown even worse. Algeria was nonetheless to be commended for its policy of promoting a multifaceted culture. In that regard, she would like to know more about the composition and activities of the National Cultural Council.

25. The implementation of article 6 was well explained in the tenth periodic report, but information was needed on the compensation of victims. Under article 7, the dissemination of information was not considered as the sole measure for combating racial discrimination. The struggle should also be waged in the fields of teaching, education and culture. In that connection, she referred to the Charter of the United Nations and the Universal Declaration of Human Rights, as well as the recommendations made in the context of the United Nations Decade for Human Rights Education, including the training of the judiciary, prison authorities and police - recommendations which also appeared in General Recommendation XIII of the Committee. She wondered what had been done in that regard. Lastly, she called on Algeria to publicize the Committee's recommendations in Arabic and in the minority languages and to pay its contribution under article 8, paragraph 6, of the Convention.

26. Mr. ABOUL-NASR said he wished to express reservations about the procedure followed by Mrs. Sadiq Ali. She had not sinned by omission - on the contrary. But the scope of her presentation to the Committee had been very broad because she had also touched on questions outside the Committee's competence, had expressed opinions of her own which could not commit the Committee and she had not restricted her information to sources that would have enabled her to take a different view of the problems she had mentioned. In particular, many national and regional human rights bodies had condemned the atrocities committed by the terrorists and had praised the efforts of the Algerian Government to put an end to the situation. The appointment of country rapporteurs was a practice he did not favour, and the presentation just made was a good example of how the practice could get out of hand. The Committee should discuss the matter thoroughly.

27. Mr. VALENCIA RODRIGUEZ thanked the representative of Algeria for the information he had provided to the Committee orally, and also thanked Mrs. Sadiq Ali for the enormous amount of work she had undertaken. With regard to the report under consideration, Algeria had adhered without

reservation to the objectives of the Convention and was attempting to fulfil its obligations thereunder. He welcomed the continuing process of democratization, as indicated in paragraph 2 of the report, and proposed that the process should be strengthened by a reaffirmation of measures to implement the Convention.

28. The information contained in paragraphs 3, 4 and 5 on the incorporation of the Convention in the Algerian Constitution and legislation was also welcome. He did, however, wonder whether, since the exclusion clause in the Elections Bill had been condemned as being contrary to the Convention, persons not of "original" Algerian nationality could stand for the office of President of the Republic. He would like a precise definition of that term.

29. The abolition of the discriminatory system set up during the colonial period, which classified the population according to pseudo-ethnic criteria, was gratifying. Had other criteria been applied in order to furnish the information requested by the Committee on the ethnic composition of the population? It was interesting to see the new criteria, mentioned in paragraph 13, whereby the Algerian personality was now recognized.

30. Fortunately, according to paragraph 15, measures had been taken to combat literature imported from abroad which carried anti-Semitic ideas and he asked what the results had been. As to paragraphs 21 et seq., he was pleased that Algeria had responded to Committee decision No. 3 of 10 March 1995 and had argued convincingly that, reprehensible as they were, the terrorist activities were not racist or xenophobic in nature.

31. He would like additional information on the nature of the amendments to the Penal Code and Code of Criminal Procedure, mentioned in paragraph 24, and wondered what impact they might have on minorities. With reference to paragraph 26, he also asked for more than mere figures on cases dealt with, judgements handed down, judgements pending and investigations under way.

32. Mr. WOLFRUM said he welcomed Algeria's report and the additional information provided by Mr. Dembri. Recalling, however, that under article 9 of the Convention, States parties were called upon to report not only on legislative measures but also on judicial, administrative or other measures undertaken to give effect to its provisions, he noted that the report had concentrated on the legislative measures. Article 9 was also very specific about "measures which give effect to" the Convention. Even if, according to paragraph 20 of the report, none of the legislative provisions violated the Convention - something the Committee did not doubt - the State party failed to mention which provisions were aimed at implementing the Convention.

33. During the consideration of Algeria's tenth periodic report, the Committee had raised certain questions which were in no way intended to accuse the State party, but to facilitate dialogue. Mrs. Sadiq Ali had made a remarkable effort to assess the human rights situation in Algeria and the points she had raised deserved a reply. He shared her concerns with regard to the nomadic communities.

34. Referring to paragraph 4 of the report, he said that, by making the Convention an integral part of Algerian legislation since 14 February 1972, Algeria had displayed a very modern outlook. He would like more information on cases in which international law had played a role in Algeria.

35. The information furnished in paragraph 15 on literature imported from abroad concerned the implementation of article 4 of the Convention. Which provisions of the Penal Code covered such literature and the authors, and what actions could be or had been brought against them?

36. With respect to the implementation of article 5, covered in paragraphs 21 et seq. of the report, one important issue which had not been touched upon - the incorporation of the Convention into labour law. Admittedly, it was a big problem in many countries, but given the prevailing unemployment it was legitimate to ask whether members of minorities had the same opportunities as others to find a job.

37. The report did not contain any new information on the situation of the Berber populations. To what extent were the authorities paying attention to that situation? Were schoolchildren told the origins of the Algerian people? The nomads were certainly not a different ethnic group and he would like to know whether their way of life was protected and whether positive action was taken so they could carry on their way of life.

38. Mr. de GOUTTES said he welcomed the Government's willingness to keep up the dialogue with the Committee, despite the enormous difficulties the country was facing. The situation in Algeria was much more complex than was shown in the media: the problem could not be boiled down to a straightforward conflict between the State authorities and the Islamic fundamentalists and extremists. Many other factors were involved, including conflicts stemming from the country's recent history, family and other forms of vengeance, the persistence of tribal conflicts and organized crime. The report was certainly interesting, but it was too short and general and did not deal sufficiently with the concrete implementation of the provisions of the Convention within the present context, which was an exceptionally difficult one.

39. Paragraph 13 stated that "Since Algeria attained its independence, censuses have no longer been carried out on the basis of ethnic, religious or linguistic criteria". Nonetheless, the Committee needed to know what the ethnic composition of the country was. During the consideration of the tenth periodic report, the Committee had asked for the next report to contain demographic and statistical data to fill out the social indicators, reflecting in particular the situation of the ethnic and racial groups, including the Berbers and the blacks. Furthermore, according to a document of the Berber Cultural Movement, the Constitution did not recognize Berber identity, the Berber language was taught only in pilot schools, legislation allowed for incitement to ethnic and racial discrimination in public places and even in the media, and no member of the Jewish-Berber or Berber-Christian communities had filled a high-level government post. The delegation should explain its position on that document.

40. The assertion in paragraph 15 of the report that there was a total absence of racial discrimination in Algeria was not in conformity with the assertion, continually reiterated by the Committee, that no country was free of racial discrimination. Every Government must take the appropriate steps, at least for preventive purposes, to combat the phenomenon. Criminal law was not only meant to punish; it also had a preventive and didactic role for the population. The Government should therefore provide details on current provisions for penalizing racist acts, under article 4 of the Convention, taking account of the amendments cited in paragraph 19 of the twelfth periodic report. The next report should also contain information on complaints, prosecutions, sentences and compensation for racist acts. An absence of complaints was not necessarily a positive indicator and could reflect the population's ignorance of their rights, a lack of confidence in the police and system of justice or a lack of interest by the authorities in prosecuting such offences.

41. According to paragraph 22 of the report, violence against foreigners was neither racially nor ethnically inspired. He found it difficult to take that statement at face value. Some NGOs, including Amnesty International, maintained that killings of foreigners had not led to exhaustive inquiries. Those NGOs had also spoken of difficulties in conducting investigations at the sites of massacres and human rights violations.

42. Mr. GARVALOV said that, although human rights were universal, the human rights situation in each country should nevertheless be considered in the light of particular circumstances. If it were possible to talk about extenuating circumstances, that certainly applied to Algeria, which was going through enormous difficulties. Nevertheless, the report had not been prepared in accordance with the Committee's guidelines. The lack of information on articles 3, 4, 6 and 7 was regrettable, especially because of the State party's exemplary anti-apartheid work within the United Nations.

43. He was surprised by the use of the word "differentiation" in the last sentence of paragraph 7, according to which the Muslim religion condemned racial, tribal, ethnic or linguistic differentiation. What should be condemned was discrimination, not distinctions, which were a reality in every country. Paragraph 15 stated that "Practices constituting racial discrimination are unknown in Algeria". No country was free of discrimination, however. If that statement were really true, would the Berbers have protested for more than a year that their language was not being taught in the schools? Why had the Government in 1995 created an Office of the High Commissioner on Amazighe Status?

44. According to paragraph 19, the Penal Code and Code of Criminal Procedure had been amended. How and to what extent had that been done, and what were the direct consequences of those amendments with respect to the Convention? Paragraph 22 stated that the Committee's decision No. 3 of 10 March 1995 constituted an over-hasty judgement. Events in Algeria since 1995, however, proved that the Committee had been right. Furthermore, the GIA actually had declared in 1994 its intention to eliminate all Jews and Christians in Algeria.

45. Lastly, he welcomed the frankness and honesty with which, in paragraphs 28 and 29, the Government recognized the situation prevailing in Algeria and thanked the Government for continuing its dialogue with the Committee.

46. Mr. van BOVEN said Algeria's report was at the very least incomplete and he hoped the next report would be more detailed and in conformity with the Committee's guidelines. He shared Mr. Garvalov's view that the Committee decision referred to in paragraphs 21 and 22 did not constitute a hasty judgement. He associated himself with the additional questions raised by Mrs. Sadiq Ali, particularly with regard to the Berber community, especially since the information provided in paragraph 11 was inadequate. He approved of her broad interpretation of the Committee's mandate and endorsed her observations on the importance of training law enforcement officers, in conformity with General Recommendation XIII.

47. General Recommendation XVII related to the need to promote the Convention at the national level. Since Algeria had, in 1989, made the declaration under article 14, how many Algerians were aware of the remedies available to them under the Convention? The Committee had not in fact received any communications from Algerian citizens or any other individuals under Algerian jurisdiction. It was his hope that Algeria would join those countries that had accepted the amendment to article 8, paragraph 6, aimed at providing the Committee with greater financial security.

48. Mr. AHMADU said the consideration of State party reports should in no way resemble an inquisition. The key word was "dialogue", and it would be good if the positive aspects of the reports were highlighted, as well as any causes for concern. Algeria was a very important Arab African country which, in identifying itself with the rest of the continent, had devoted itself to the liberation of other countries from all forms of domination: apartheid, colonization, economic domination and so forth. Since 1992, the country had been facing enormous difficulties, which could in fact occur anywhere, and the Government deserved recognition for its efforts in that regard.

49. Far from advocating "ethnic demographics", he still believed that the situation of the main ethnic groups, particularly those of a different skin colour, should be dealt with in different paragraphs or chapters of the report. If minorities were considered to exist, there must be cases of discrimination. In fact, during its most recent exchange with the State party, the Committee had asked for clarification on the place of the Berber population within Algerian society, in terms of identity, language, participation in public life and the social rights covered by article 5. He would like more information on the subject, and also wished to know whether Algeria recognized the principle of dual nationality.

50. Mr. CHIGOVERA said the statement in paragraph 4 that the Convention was an integral part of Algerian legislation and that its provisions could be invoked by individuals and bodies corporate before the courts did not release the State party from its obligation under the Convention to take specific measures to combat racial discrimination. He therefore asked for clarification on the practical implementation of the Convention.

51. With reference to paragraph 9, according to which the public authorities refused to conduct censuses on the basis of linguistic, religious or racial criteria, he doubted whether it was possible adequately to protect the rights of minority groups without identifying those groups.

52. According to paragraph 10, Islam was the religion of the State. What effect did that have on the status of other religions? Were mixed marriages possible? If so, did spouses enjoy equal rights in regard to inheritance or in cases of divorce?

53. Mr. SHAHI, referring to paragraph 4 of the report and article 9 of the Convention, said he would like further information on legislative, judicial, administrative or other measures adopted to give effect to the provisions of the Convention.

54. Paragraph 17 said that the Civil Code, the Penal Code, the Code of Criminal Procedure and various other codes were inspired by the Napoleonic Code and based on the principle of equality between citizens. Which provisions of the Civil Code and Penal Code, in particular, penalized the dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination, in keeping with the terms of article 4 of the Convention?

55. In relation to article 5 of the Convention, whereby States parties undertook to prohibit and to eliminate racial discrimination and guarantee the right of everyone to equality before the law, particularly in the enjoyment of civil and political rights, information was lacking on the effective exercise of those rights by the various groups of the population. According to the previous report, the Algerian population was homogeneous. The report under consideration, however, asserted that, apart from its Arab and Muslim culture, Algeria was based on an Amazighe, African and Mediterranean substratum. Paragraph 21 of document CERD/C/SR.963 stated that there were ethnic populations in Algeria that claimed to be descended from tribes of great antiquity outside the mainstream of the great civilizations of the Mediterranean region. Hence there was ethnic diversity. In the circumstances, he would like to know to what extent the Amazighe participated in public life and whether they exercised their political, social and cultural rights like the rest of the population. He also wanted more information on the role of the Office of the High Commissioner on Amazighe Status and to know whether the Commissioner was able to protect the fundamental rights of the community concerned. It was gratifying that, as indicated in paragraph 12 of the report, the Christian and Jewish communities enjoyed freedom of religious practice.

56. Paragraph 26 of the report furnished information on the number of cases of terrorism before the courts involving foreign victims. What about victims, if any, who were members of other groups?

57. Some of the Committee's questions to the delegation during the consideration of the tenth periodic report were still unanswered. The Committee had asked, among other things, whether public officials had the right to belong to political parties. If so, were they required to be impartial when they had to decide on administrative or other matters?

58. In the tenth report, reference had been made to the National Human Rights Commission, but no information was provided on it in the twelfth report. He therefore asked for clarification on the Commission's actions to combat human rights violations.

59. Lastly, he welcomed the fact that Algeria had recognized the competence of the Committee to receive and consider communications from individuals claiming to be victims of a violation of any of the rights set forth in the Convention.

60. Mr. SHERIFIS said he hoped that, despite the acts of violence and terrorism, the Government could restore peace by respecting democratic principles as well as the human rights and freedoms of all. Algeria was to be commended for being among the small number of States to have recognized the Committee's competence to receive and consider communications under article 14 of the Convention. He would like to know whether Algeria had begun the process of accepting the amendments to article 8 of the Convention on financing the expenses of Committee members. Those amendments had been adopted by the General Assembly, but to date only 23 countries had accepted them, whereas at least 100 countries were needed for them to enter into force.

61. During its consideration of the tenth periodic report, the Committee had expressed the wish that the next report should contain more demographic and statistical data. In that regard, the twelfth report was still too succinct.

62. Paragraph 14, stated that the Algerian Government was implementing an active policy of support for measures aimed at combating, internationally, all forms of racial or religious discrimination. However, the Government did not set enough store by its action: in many international forums, from the General Assembly to the Movement of Non-Aligned Countries, Algeria had waged an exemplary war against apartheid. It therefore seemed unfair to say, as one NGO had done, that the sole purpose of the Government's policy against all forms of racial or religious discrimination was to divert international opinion from other issues.

63. He would like additional information on the status of the French language in Algeria. English seemed to have replaced French in the education system.

64. With regard to paragraph 22 (a) of the report, the Government was wrong to claim that, by referring to article 5 (b) of the Convention, the Committee had concluded too hastily that there had been a violation of its provisions by the State or by individuals. However, it might just be a matter of the English translation of the phrase in question, namely "the reference to article 5 (b) constitutes an over-hasty judgement ...".

65. He asked for more information on the implementation of article 7 of the Convention and on General Recommendation V, in which the Committee urged States parties to provide information on immediate and effective measures they had taken to promote the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Racial Discrimination and the Convention.

66. Mr. YUTZIS, referring to paragraph 9 of the report, said that, while the colonial regime had in fact established a discriminatory system in Algeria - which was what all colonial Powers did - it was not true that the classification of the population established by that regime and cited in that paragraph was completely false. The Tuaregs were indeed a quite special group marked by a long historical tradition.

67. Paragraph 13 indicated that, since independence, censuses had no longer been carried out on the basis of ethnic, religious or linguistic criteria. He wondered whether the Government had not, consciously or unconsciously, adopted a policy of not defending groups with particular historical traits. In his opinion, a country's national unity could be achieved by the promotion and recognition of groups with characteristics of their own

68. He wondered whether the reference in paragraph 7 to racial, tribal, ethnic or linguistic differentiation should be taken to mean that Islam condemned racial distinctions in themselves, or racial distinctions that entailed discrimination.

69. According to paragraph 12, article 77 of the Information Act established penalties for anyone who, through writing, sound, image, drawing or any other direct or indirect means, insulted Islam and the other "celestial" religions. Religions that were not celestial should also be protected, since they were part of the identity of ethnic groups. Lastly, he was not convinced that the latest attacks and massacres perpetrated by terrorist groups were directed solely at foreigners. The Algerian people were also paying the price for those blind terrorist acts. It was his hope that Algeria would be able to resolve that difficult and complex problem.

70. The CHAIRMAN invited the delegation of Algeria to reply to the questions raised by members at the next meeting or to let the Government do so in writing in its next report.

The meeting rose at 6.10 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1217th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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Review of the implementation of the Convention in States parties whose reports are excessively overdue

Ethiopia

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GE.97-17668 (E)

The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

1. The CHAIRMAN suggested, in respect of the Committee's consideration of the situation in Cambodia, that the Committee should write to the Cambodian Embassy in Paris, stating that consideration was to be deferred until the next session of the Committee and inviting the Cambodian Government to submit additional information. The letter should emphasize the importance which the Committee attached to dialogue with States parties and make it clear that the decision had been taken only because of the difficult political situation in Cambodia.

STATEMENT BY MR. RALPH ZACKLIN, OFFICER-IN-CHARGE, HIGH COMMISSIONER/CENTRE FOR HUMAN RIGHTS

2. Mr. ZACKLIN (Officer-in-Charge, High Commissioner/Centre for Human Rights) drew attention to the important recent developments. Firstly, Mrs. Mary Robinson, currently the President of Ireland, had been appointed to the post of High Commissioner for Human Rights, and would take up her duties in September 1997. Secondly, the Secretary-General had proposed important structural reforms within the United Nations, designed to strengthen substantive and technical support for human rights legislative bodies, treaty bodies and special procedures (document A/51/950, "Renewing the United Nations: A programme for reform"). Efforts to establish common data banks for information, research and analysis to assist those bodies were to be accelerated. The High Commissioner's Office and the Centre for Human Rights were to be combined into a single unit, to be called the Office of the United Nations High Commissioner for Human Rights.

3. Other recent developments included a seminar organized by the Secretariat on immigration, racism and racial discrimination on 5 to 9 May 1997, within the framework of the Third Decade to Combat Racism and Racial Discrimination. It was gratifying to note the progress made by two members of the Committee, along with two experts from the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in drawing up a joint working paper on article 7 of the International Convention on the Elimination of all Forms of Racial Discrimination. He welcomed the Committee's proposal to prepare a list of subjects in the area of racial discrimination, which could be considered as topics for studies by the Sub-Commission: those proposals had been submitted to the Sub-Commission at its current session in document E/CN.4/Sub.2/1997/31.

4. The Commission for Human Rights, in its resolution 1997/74, had recommended to the General Assembly that a world conference on racism and racial discrimination, xenophobia and related intolerance should be convened before the year 2001. The resolution called upon a number of United Nations bodies, including the Committee, to submit recommendations and to participate in the conference.

5. The eighth meeting of persons chairing the human rights treaty bodies was to be held in Geneva on 15-19 September 1997 and would consider the

recommendations for the reform of the work of the treaty bodies put forward by the independent expert Mr. Philip Alston (E/CN.4/1997/74). He looked forward to hearing the Committee's views.

6. The Committee was to consider the situation in the Democratic Republic of the Congo and Rwanda at its current session. The joint investigative mission established by the Commission on Human Rights had drawn up a report about the situation (A/51/942) from the sources available to it, although it had not been able to visit the country. The Secretary-General had just appointed another investigative team under his own authority, in which Mr. Chigovera, a member of the Committee, would participate.

7. The Committee was due to consider the situation in a number of other States, including Israel, Algeria, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Cambodia. He looked forward to receiving the Committee's suggestions and recommendations on ways of reducing ethnic violence and hatred in those countries and promoting tolerance and understanding. The Centre for Human Rights would do its best to support the Committee's work in every way.

8. Mr. GARVALOV said that, before any radical reform of the human rights treaty bodies was undertaken, it was essential to understand what they could do, given the necessary support. It was also important to ensure that all the treaty monitoring bodies were given equal treatment. The Committee needed more time to analyse the information available to it, both from periodic reports and through the early warning and urgent procedures, and to reach a real consensus on its concluding observations. In the present circumstances, it was impossible to know how well the treaty monitoring bodies could function, what should be expected of them and what shortcomings remained to be resolved, and hence to make an objective assessment of their role.

9. Mr. de GOUTTES welcomed the opportunity to make contact once more with Mr. Zacklin. The Committee had also maintained contact with Mr. Glèlè-Ahanhanzo, Special Rapporteur of the Commission on Human Rights on contemporary forms of racism and racial discrimination, xenophobia and related intolerance, but it had no up-to-date information about the Special Rapporteur's activities. He would be grateful for any information which Mr. Zacklin could provide, and hoped that another meeting with the Special Rapporteur would be arranged soon. The Committee had already discussed the report of Mr. Alston, and sought more information about its precise status. Did it have any binding force? Was it open to discussion?

10. Mr. SHERIFIS welcomed the plans to strengthen the Centre for Human Rights. He hoped that the secretariat support available to the Committee would also be increased. The staff assigned to the Committee did an excellent job, but they worked for other committees too, and their workload was heavy.

11. He welcomed the appointment of Mrs. Mary Robinson as the new High Commissioner for Human Rights, and hoped that the Committee would play its full part in the activities for the Third Decade to Combat Racism and Racial Discrimination. The aims of all the United Nations human rights bodies

should be to work for the accession of as many States as possible to the international human rights instruments and to increase public awareness of their provisions.

12. Mr. RECHETOV welcomed the appointment of Mrs. Mary Robinson as the new High Commissioner for Human Rights; he admired her as an excellent lawyer who was unprejudiced and quick to grasp new issues.

13. One problem which often arose was that States, and the public at large, failed to distinguish between the various types of human rights body: the politicized bodies, such as the Third Committee of the General Assembly or the Commission on Human Rights, the treaty monitoring bodies, such as the Committee, and bodies outside the United Nations system, including regional organizations such as the Council of Europe. It was essential to make clear the differences between those three groups, while ensuring that their activities were complementary.

14. The CHAIRMAN said that the work of the treaty monitoring bodies - establishing standards for human rights and persuading all States to abide by them - was one of the most important elements of the United Nations' human rights work.

15. Mr. ZACKLIN (Officer-in-Charge, High Commissioner/Centre for Human Rights) acknowledged the importance of the treaty monitoring bodies. The current reforms within the United Nations system, along with a number of significant anniversaries coming up in 1998, including the fiftieth anniversary of the Universal Declaration of Human Rights, provided a unique opportunity to reassess the United Nations' human rights activities. The extensive human rights knowledge and high international profile of the new High Commissioner, Mrs. Robinson, would make a valuable contribution to the reform process.

16. Members had called for more secretariat support for the Committee's work. That was a long-standing issue, but in the end it was a question of human resources and hence financial resources. The Centre for Human Rights would do its best to help the Committee in every way with the means available to it, which would themselves come under review in due course.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh and twelfth periodic reports of Algeria (CERD/C/280/Add.3) (continued)

17. At the invitation of the Chairman, the delegation of Algeria resumed its place at the Committee table.

18. Mr. DEMBRI (Algeria) said that the Committee's questions at the previous meeting had opened up a valuable dialogue about the implementation of the Convention in Algeria and about wider human rights issues.

19. One important issue which had been raised was that of the national identity of the Algerian people. His delegation had been puzzled by the

discussion about a potential definition of "Algerian society". From its beginnings, Algeria had always been a single unified country, not one made up of diverse communities with their own laws and customs. The country had remained a single community despite the influence of other civilizations, including the Byzantines, the Greeks and the Romans.

20. Another widespread myth was that of the "indigenous" population of Algeria. The present-day Algerian people were the indigenous population, although they had naturally undergone some foreign influences. If Algerians had defined themselves as Berbers, it was because the various invaders and colonizers had not understood their language. The Greek word from which "Berber" was derived, "barbarian", referred to all those peoples in the Mediterranean basin who did not speak Greek. That historical definition of Algerianism reflected a diversity of ethnic groups; all skin, eye and hair colours were found among Algerians, who had never considered such differences to be a sign of separate communities.

21. With colonization in 1830, the colonizers had begun imposing their own criteria of differentiation on the people. The principle of "divide and conquer" had been applied to Algeria through legal instruments. One such instrument was the Code of Indigenous Status, which had defined the relationship between indigenous Algerians and the colonial settlers by establishing separate electoral colleges for each. Switching from the former to the latter college required religious conversion and changing one's name - in other words, making a complete break with one's society of origin. The second such instrument, the Varnier Act, had changed the relationship of Algerians with their land, replacing the system of family land ownership with one in which any Algerian was free to sell his land, which had resulted in the appropriation of vast agricultural tracts by foreigners. Thirdly, there was the Crémieux decree, which had segregated indigenous Jews from the rest of the community by giving them de jure and de facto French nationality. The rejection of customary Algerian law had meant that the diverse but fraternal make-up of Algerian society was no longer recognized.

22. By a 1938 decree of the French Presidential Council, Arabic was declared to be a foreign language in Algeria. The result was total disarray within society and a prodigious rise in the country's nationalist and armed liberation movements, aimed at bringing back Algeria's original unitary society. The process of pauperization and relapse into illiteracy was complete. Now, in the 35 years since independence, in the space of just one generation, the schoolgoing population had risen from 7,000 schoolchildren and 300 university students in 1962 to 8 million schoolchildren and 350,000 university students in 1997.

23. Colonization deserved an equal place in the world's memory with the Holocaust, as future generations would continue to suffer the consequences of colonial ideologies, which were always founded on the division of populations, antagonism and a flagrant denial of human rights. It was understandable that, upon independence, Algeria had repealed all legislation that condoned the alien concepts of racial discrimination or ethnic differentiation. Algeria believed that conducting censuses of its ethnic and religious groups was

contrary to the ideas of freedom. The Algerian identity card had never mentioned religious or ethnic affiliation, which had been an invention of the colonial period.

24. The Arabo-Berber definition of the Algerian meant that, historically, Algerians were Berbers who had become part of the Arabic and Muslim world. "Amazighe", which meant "free man", was a term universally applied to Algerians and the one by which they had first been known. The country was also trying to rehabilitate the Amazighe language, which was derived from Berber. Dialects based on Amazighe were spoken in 7 of the country's 48 departments, in addition to Arabic. The major problem with rehabilitating the language was the diversity of its dialects. The situation was not unlike the history of the Romance languages and of French itself, all of them deriving from numerous dialects which reflected, as in the case of Amazighe, a cultural heritage rather than an ethnic one. It was the Constitution of 1996 which had given Algerianism its Amazighe, Arab and Muslim foundations.

25. An early measure had been the establishment in 1995 of the Office of the High Commissioner on Amazighe Status, which worked with civic associations and organizations involved with the cultural aspects of Amazighe and the rehabilitation of the Amazighe language. While there were problems in training teachers in Amazighe, the most serious problem was in transcribing the language, since it was spoken and had never been codified.

26. In response to other questions raised, he said that in combating fundamentalist violence Algeria was involved in a struggle for freedom and for the most basic rights, including the right to life. Algeria rejected the NGOs' explanation of the situation as one of civil war between the security forces and armed Islamic groups. The country had been engaged in two struggles: to re-emerge in the history of the twentieth century, and to create a democratic, pluralistic society open to a market economy. The existence of armed Islamic groups could not be explained by the interruption of the election process in 1991; the violence had actually begun earlier, with the 1989 attack on a barracks and the 1990 attack on the Blida court, both by the Islamic Armed Group (GIA). Algeria was paying the price not only of its fight for freedom and a multi-party system, but also of the repercussions of the cold war: GIA agents had all been trained in Afghanistan, having been mobilized in 1979 from Algeria, Yemen, Egypt, Morocco and Tunisia by foreign officers, often Arabs, at the instigation of certain countries, in order to defend Islam against communism in Afghanistan. When the war there had ended, the agents had returned to their countries, and it was only natural that ideas of pluralism, human rights and women's rights had appeared impious to them because they were not mentioned in divine law. That was the genesis of Islamic fundamentalism in Algeria.

27. While the worst was over, the question of the supply of those groups needed to be raised. Their logistical bases were mostly in Europe - in France, Germany, Belgium, the United Kingdom, Italy and Spain. There was a vital need for international coordination, as those structures were becoming increasingly Mafia-like, destabilizing democracies. The situation was not

unique to Algeria; weapons could be bought cheaply in Poland, the Czech Republic or the Russian Federation, and the problem weighed on the conscience of the entire world. Those armed groups had no connection whatsoever with Islam, which encouraged the development of the individual.

28. He was troubled by the documents of Amnesty International: there were no private militia in Algeria, but, rather, legally constituted "self-defence groups". With a territory extending over some 2.2 million square metres, and a widely dispersed population of about 28 million, a military force covering the entire territory was unimaginable. The self-defence groups were auxiliaries to the security forces, working under the national gendarmerie, and were trained in accordance with the most up-to-date principles of fundamental rights and freedoms and humanitarian law. He asked any NGO to prove the contrary, and called on such organizations to cease engaging in fruitless polemics. The entire civilian population was enduring the barbarity of the armed groups; NGOs, including Amnesty International, should take a clear stand on the massacres and explicitly condemn attacks on the right to life. He deplored Amnesty's lack of professionalism; it was no longer the organization of Sean MacBride, its investigators no longer possessed integrity and there was no longer any respect for the process of debate. There were never any field data, but only unilateral allegations for which there was no proof; and yet debate was the cornerstone of democracy.

29. Algeria was a pluralistic society founded on the separation of powers. For the first time in history, the President's mandate had been limited to two terms of office; a bicameral Parliament had been set up, as well as a Council of State and Constitutional Council, whose still-limited case law proved the vitality of the debate and the acceptance of criticism.

30. It was true that one third of the Council of the Nation, or Senate, was appointed by the President, but that did not detract from its constitutionality. Other undisputably democratic countries had similar arrangements. In a young republic such as Algeria, which needed expertise, it was natural to keep one third of the 48 Senate seats for experienced individuals.

31. The recent Algerian elections had taken place in a context of pluralism in the presence of United Nations, Arab League and Organization of African Unity (OAU) observers. He cited the creation in 1992 of the National Human Rights Observatory (ONDH), the appointment in 1994 of an Ombudsman, which gave Algerians further legal protection, and the creation of a Law and Liberties Commission within the National Assembly.

32. Addressing questions asked by Mr. de Gouttes and Mrs. Sadiq Ali about the implementation of the Convention, he said Algeria was committed to the universality of the Convention and any Algerian could invoke it under the Penal Code. In addition to the Convention being taught to magistrates, the security forces, law students and others, a Human Rights chair had been instituted at the University in Oran, seminars were organized and Human Rights Day was celebrated across the country to raise awareness about the Convention.

33. In response to Mr. van Boven's query about violence against foreigners he said wanton acts perpetrated by Islamic groups had led foreigners to

believe they were the target of xenophobia. Despite the State's efforts to protect them, a few foreigners, including workers from several different countries and members of the clergy, who were guaranteed protection under the Constitution, had been killed. The families of all victims, regardless of origin, were entitled to compensation by the Algerian Government.

34. On the matter of combating anti-Semitic activities, the Algerian Government had reacted swiftly in 1991 to the publication of anti-Semitic literature in a newspaper financed by the Islamic Salvation Front (FIS) by banning the newspaper.

35. He denied reports that the French language was being supplanted by English. French was still the second and administrative language of the country and very much part of the audio-visual landscape. Other foreign languages were being taught alongside French and English, where finances and human resources permitted.

36. On the question of the Nationality Code, jus sanguinis was the prevailing principle but anyone born on Algerian soil could be naturalized. However, a special provision had given French nationals living in Algeria up to 1962 the right to obtain nationality through a simple declaration before a judge.

37. He offered his vision of Algeria within the community of nations by quoting Goethe: "I built my house on no_hing, nowhere, so the whole world is mine".

38. The CHAIRMAN thanked Mr. Dembri for his report, remarks on the origin and nature of the Algerian conflict, and answers to the Committee's queries.

39. Mr. SHAHI said that Mr. Dembri had thrown light on many aspects of Algerian identity. The Committee was aware of the concern of many States parties that their obligation to provide an ethnic breakdown of their populations could give rise to divisions and anti-national tendencies. The Committee faced something of a dilemma: in refraining from asking States parties about ethnicity in their countries it would be failing in its duties under article 1, paragraph 1 of the Convention.

40. Referring to the definition of Algeria's identity in paragraph 10 of its twelfth periodic report, he asked whether the reference to an Amazighe, African and Mediterranean substratum was to be understood in cultural or ethnic terms.

41. Mr. DIACONU took up the issue of Algerian identity, stating that it was not the intention of the Committee to create artificial ethnic groups. The Convention protected individuals whose rights under the Convention were violated. However, there was also provision under article 2 for discrimination against groups. Cultural and ethnic specificities should not be trampled on in the quest for national unity because it could lead to conflict of the kind resurfacing in parts of Europe and elsewhere.

42. He commended Algeria's efforts to preserve the Berber language and revive the Amazighe language. Algeria was one of many countries moving in

that direction and the Committee wanted to see more initiatives of the kind in which linguistic and cultural identities were respected because they had a direct, crucial impact on the day-to-day lives of the minorities who spoke them, regardless of whether they were recognized officially or not.

43. Mr. de GOUTTES said he was still mindful of the need for the Committee to identify ways of helping Algeria through its crisis and to include them in the concluding observations to be sent to the General Assembly.

44. The Committee should consider, first and foremost, information provided by States parties but also from other United Nations bodies and NGOs and had adopted a General Recommendation to that effect. In the light of information submitted by a number of NGOs, including Amnesty International and Human Rights Watch, he invited the representative of Algeria to respond to reports of insecurity among intellectuals of the opposition, lawyers, human rights activists and journalists, allegations of violation of the freedom of the press, disappearances, assassinations by State agents, terrorist groups and self-defence militia and State obstruction of human rights investigations. The Committee could not ignore such allegations even though they did not fall directly under its mandate.

45. Mr. WOLFRUM reiterated that it was not the Committee's intention to create artificial ethnic groups. However, in tackling the problem of determining the ethnic or racial origin of an individual, the Committee was faced with three options: the definition proffered by the State, by the group or by the individual. He drew attention to the Committee's General Recommendation VIII according to which the final decision as to identification lay with the individual.

46. The Algerian Government's policy of promoting the Berber language indicated that there was an interest in using the language, which testified to the aspirations of the Berber-speaking population. He regretted that the Government's willingness to promote the use of the Berber language was not referred to in the report and requested an update on the situation in subsequent reports.

47. Mr. ABOUL-NASR clarified his position on reports from NGOs. He had never contended that they should be ignored and was grateful for them but the Committee should strive for balanced opinions reflecting different sources of information. Most of the information presented to the Committee came from organizations in developed countries, which had their own perception of reality. The allegations of restrictions on freedom of information illustrated the difference in approaches to the question. Most western countries did not implement or entered reservations to article 4, invoking freedom of information as a priority. In the Middle East, they adhered to the principles enshrined in article 4 and hence could not tolerate false information and propaganda or criminal acts and groups. The developing countries were in the minority on the Committee and he hoped that their views would also be taken into consideration.

48. Finally, he took issue with what he saw as western influences in Mr. Dembri's approach to Islamic fundamentalists, who were neither Muslim nor

fundamentalist because Islam prohibited the crimes perpetrated in Algeria and Egypt in the name of Islam. Diplomatic efforts were being made by Middle Eastern States to put restrictions on groups in exile which financed terrorists. Financing them was foolish, as some countries like the United States of America were beginning to discover.

49. Mr. GARVALOV agreed with Mr. Aboul-Nasr that the dialogue was between members of the Committee as much as between the Committee and the State party. He had constantly appealed for each case to be discussed on its merits because of countries like Algeria, where the question was whether the homogeneous society which the Government claimed existed was the result of forced assimilation or a progressive tendency. There had been many cases in the past where the Committee had objected to official claims to a homogeneous society when it was clear that assimilation had been forced.

50. The question of the Convention, the Committee's approach to it and whether the Committee should press States parties to accept realities and recognize the existence of minorities or ethnic groups despite their constitutional arrangements should be discussed properly in view of the differences of opinion among Committee members and the frequency with which the question of the Convention vis-à-vis minorities arose.

51. Mr. DEMBRI (Algeria), replying to the additional questions raised, said that the dialogue had helped highlight some of the problems encountered in implementing the Convention. It was clear from the many reports in circulation on human rights situations the world over that the concept of minorities and indigenous peoples could not be applied uniformally.

52. With regard to the questions raised by Mr. Garvalov, Algeria's substrata were not the result of forced assimilation or progressive tendencies but of spontaneous assimilation since the seventh century. People were not defined by linguistic groups as many spoke several languages, nor was language a barrier to public office. The present Head of Government, for example, was a Berber speaker as were 14 of the country's 32 ministers. That cultural diversity demonstrated the dynamism of Algerian society.

53. Paragraph 10 of the report (CERD/C/280/Add.3) might appear confusing but the fact was that the Algerian people were the product of the passage of many different peoples over many centuries. There was great support for Islamic and Arabic values and Arabic had been chosen as the country's official language because in the past it had been acknowledged universally as the language of progress. The Algerian population was composed of various physical types, and consisted of Jews and Christians as well as Muslims. To categorize people by any of those characteristics, however, would be tantamount to racism and, legally be a retrograde step.

54. Responding to the issues raised by Mr. Aboul-Nasr, he saw nothing wrong in being a fundamentalist: they were present in almost all religious groups and called for the letter rather than the spirit of the religion to be upheld. The perpetrators of the terrorist violence that had arisen had attempted to hide behind religious values, as had already been stated.

55. In response to Mr. de Gouttes' question as to what might be done to curb the violence, he suggested acts of solidarity with its victims.

56. The importance of dialogue with NGOs, in particular those with consultative status with the Economic and Social Council was acknowledged provided that it was conducted on the basis of a proper debate. In many cases in the past, as in the Committee on the Rights of the Child and the report of the Special Rapporteur on extrajudicial executions, and even in the Country Rapporteur's report to the present session, claims had been made regarding the lowering of the age of criminal responsibility or disappearances which, following investigation, had subsequently proved to be false. NGOs should therefore observe a proper procedure of discussion and refrain from making anonymous, undated, politically motivated claims. Recent visits to Algeria by the International Federation of Human Rights and Human Rights Watch had cleared up much misinformation through interviews and proper discussions.

57. With regard to freedom of the press, it was true that security information, particularly relating to terrorist attacks, was censored because of the need for investigations. During the Gulf war, for example, embargoes had been placed on all war information. Such action was only normal, and did not infringe freedom of expression, any more than the anti-terrorist laws of other ccuntries which prevented the press from referring to terrorist activity or publications.

58. The fight for human rights was an ongoing one and needed to be pursued everywhere, including in Europe where only a few countries appeared to have fully implemented the European Convention on Human Rights. Improvements were always possible and in most cases achievable through productive and harmonious dialogue and proper identification of the fundamental problems.

59. Mrs. SADIQ ALI (Country Rapporteur) expressed gratitude to the head of the Algerian delegation for his informative statement and insights into the history and background of his country.

60. Mr. Shahi had addressed the question of Arab-Algerian identity and had noted the concern about creating ethnic groups where none existed, quoting article 1, paragraph 1, of the Convention to explain the Committee's dilemma in requesting demographic information and identifying such groups. Mr. Diaconu had welcomed the rehabilitation of the Berbers and their language. Mr. de Gouttes had asked what could be done in the tragic situation arising from the conflict in Algeria, to which the head of the Algerian delegation had replied that acts of solidarity should be set against barbarity. Mr. Wolfrum had shared the views of Mr. Shahi and Mr. Diaconu on article 1, paragraph 1, of the Convention and had indicated how the new groups emerging might be identified, referring in particular to General Recommendation VIII that self-identification was the best means. Mr. Aboul-Nasr's comments had been particularly important. In that connection she confirmed that her material had come from the Secretariat. If Mr. Aboul-Nasr were to send Arab communiqués to the Anti-Racism Information Service (ARIS), there would be a better balance between European and other sources of information. Mr. Garvalov had appealed for each case to be judged on its merits and had drawn a comparison between homogeneous societies formed by forced assimilation and those formed by a progressive tendency. She recommended that those main points should be covered by the concluding observations.

61. Mr. ABOUL-NASR thanked the Country Rapporteur for confirming the source of her information. The Secretariat should provide information to ARIS in view of its many contacts with regional groups, organizations and NGOs, and

also expand its own contacts as it was regularly urged to do by the major human rights bodies. In view of the structural reforms taking place in the Division of Human Rights such expansion should be possible, and enable the treaty bodies to receive information from many sources, including the New York Secretariat which did not normally pass on its information to the Committees.

62. The CHAIRMAN thanked the Algerian delegation for an interesting and productive dialogue. The concluding observations would be drafted in due course and transmitted at the earliest opportunity to the Algerian Mission in Geneva.

63. The Algerian delegation withdrew.

Review of the implementation of the Convention in States parties whose reports are excessively overdue

Ethiopia

64. Mr. CHIGOVERA (Country Rapporteur) said that Ethiopia's last report, its sixth periodic report, had been submitted to and considered by the Committee in 1990. As of July 1997, five reports were overdue.

65. Among the main concerns expressed by the Committee at its thirtieth session in August 1990 had been the lack of substantial compliance with the provisions of article 4 of the Convention, although article 218 of the Ethiopian Civil Code appeared to have been intended to comply with the Convention on the Prevention and Punishment of the Crime of Genocide. The Committee had consequently requested further information on compliance with that article. Other criticisms had related to lack of demographic information and of information on the participation of the various national ethnic groups in the country's political and social life in relation to the rights established in article 5 of the Convention.

66. At the time of the sixth report, Ethiopia had been composed of some 70 nationalities and ethnic groups, but Eritrea's subsequent independence would have had considerable impact on its demographic composition.

67. The reports and information which he had received, in particular the 1996 report of the United States State Department, suggested that the current Government had established a federal system with political boundaries drawn along major ethnic lines, apparently enabling ethnic groups to have a greater say in their own affairs and resources than at any time in the past. Although other reports alleged human rights abuses by the current Government, they were of a more general nature and did not specifically relate to racial discrimination. The report to which he had had access had acknowledged that the current Government's record of respect for human rights was significantly better than that of the Mengistu government.

68. He recommended that the State party be called upon to comply with its obligations under article 9 of the Convention and submit its reports accordingly.

69. The CHAIRMAN said that the Committee could either leave Ethiopia within the review procedure, where it would wait for a further five years before the next round, or accept Mr. Chigovera's report pending reconsideration of the situation in Ethiopia at a subsequent session.

70. Mr. CHIGOVERA said that although Ethiopia had so far failed to respond to the many reminders which had been sent out, the right course would be to call on the Ethiopian Government to submit a report in time for the Committee's fifty-second session.

71. It was so decided.

The meeting rose at 12.55 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1218th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-17703 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh to fourteenth periodic reports of the Philippines (CERD/C/299/Add.12; HRI/Corr.1/Add.37)

1. At the invitation of the Chairman, Mrs. Bautista, Mr. Lepatan, Mrs. Sibug, Mrs. Chavez and Mr. Adamat (Philippines) took places at the Committee table.

2. Mrs. BAUTISTA (Philippines), providing an update of the information on the situation in the Philippines in terms of racial discrimination, said that racial discrimination, as defined in the Convention, had always been alien to the culture of the Filipino people. The disparities between the level of development attained by the majority of Filipinos and the level at which the others - the Muslim Filipinos and the indigenous cultural communities - had remained, were attributable to colonialism, which the latter had resisted by clinging to their traditional ways of life. Filipinos all had the same racial and ethnic origins. Nevertheless, the Constitution gave special protection to the rights of the indigenous cultural communities and the Muslim Filipinos. The Government of the Philippines was still adopting legislative, judicial and administrative measures to provide such protection. The Constitution required Congress to enact the necessary measures to eliminate cultural inequalities and to ensure the fair distribution of wealth and a genuine sharing of political power. The State was also required to protect the rights of the indigenous cultural communities to their ancestral lands and their right to develop their culture and traditions. As early as April 1978, a presidential decree had introduced penalties for violations of the Convention. That decree had as yet never been invoked by any individual, group or organization. Moreover, since 1986 school curricula had included the study of human rights, while measures to promote knowledge of and protect human rights were also taken outside school.

3. She drew attention to the definition in paragraph 29 of the report of the term "indigenous cultural communities", and confirmed the assertions made in paragraphs 30-32 concerning the Philippine Government's main areas of concern in respect of those communities, and the projects and measures implemented, such as the Social Reform Agenda to ensure the social and economic development of the cultural communities in the north, and the flagship programmes for the benefit of the southern cultural communities.

4. The educational system, under which it was planned (report, para. 33) to provide the children of each community with an opportunity to receive an education in their own dialect, was in place, and festivals, textbooks and educational programmes gave pride of place to the traditional cultures. She drew attention to the measures introduced on behalf of agricultural workers, described in paragraph 35 of the report, the opportunity offered between 1975 and 1980 to members of the cultural communities to enter the Civil Service through special examinations without a written test, and the possibility given

to them since 1989 to enter the professional and subprofessional categories through written examinations which gave them equal opportunities for employment in the administration.

5. She then addressed the problem which lay at the core of the indigenous cultural communities' struggle for social and economic advancement: their claims to ancestral lands or domains of which they had been dispossessed. The first measures taken to recognize the justification for their claims through a census and delimitation of the lands and domains in question - some 2 million hectares - had been well received by the indigenous communities. She drew the Committee's attention to paragraphs 46 and 47 of the report describing the implementation of the Comprehensive Agrarian Reform Programme and the mechanisms to enable the indigenous cultural communities to participate in policy-making.

6. Lastly, she emphasized that the Government of the Philippines was endeavouring to assist the indigenous cultural communities to pursue their development, to design and implement their own projects and to preserve their culture in accordance with their own wishes. She drew attention to the Offices for Northern and Southern Cultural Communities, whose action was based on dialogue with the communities concerned and an assessment of their needs. She also referred to the manifold responsibilities of the Office of Muslim Affairs which was charged, as was explained in paragraph 54 of the report, with promoting the welfare and development of the Filipino Muslims, who made up some 10 per cent of the population. Finally, she drew attention to the recently established autonomous region of Muslim Mindanao, where elections had recently been held.

7. Mr. GARVALOV (Country Rapporteur) pointed out that when the previous periodic report of the Philippines (CERD/C/172/Add.17) had been examined, the Government of the Philippines had promised to answer outstanding questions and to provide updated statistics in its next report. Since that date, 16 August 1989, there had been important developments of concern to the Committee. In 1990, the Government had inaugurated the autonomous region of Muslim Mindanao; in that connection, he asked why only four provinces enjoyed autonomy and how effective the measure had proved. In the same year, the Social Reform Agenda had been launched as a means of combating poverty and establishing social justice and a lasting peace. In 1993 the "Rules and Regulations on Children of Indigenous Cultural Communities" had been promulgated, as a means of providing children in those communities with basic health care, nutrition and other basic social services. In 1996, the issuing of certificates recognizing the rights of the indigenous cultural communities to their lands and ancestral domains had been regulated; the same year had seen the establishment of the Southern Philippines Council for Peace and Development and the Consultative Assembly for the region, which had been declared a Special Zone of Peace and Development following the conclusion of a peace agreement between the Government and the MNLF (Moro National Liberation Front). Those efforts on behalf of the advancement of the indigenous cultural communities and of the Filipino Muslims were continuing, and a number of bills to that effect had been submitted to Congress for consideration.

8. When he had read the report, which, according to paragraph 2, "deals with the legislative, judicial, administrative and other measures which have been adopted in the Philippines to give effect to the provisions of the ... Convention", he had formed the impression that it was somewhat unbalanced: the information provided in Chapter V on the indigenous cultural communities and the Filipino Muslims - which was undoubtedly of the greatest interest - was far more plentiful than the information provided in Chapter IV on the implementation of articles 2 to 7 of the Convention, which concerned the whole of the Filipino population. He also noted that the section of the report entitled "General statement" repeated the Government's views already set forth in the tenth periodic report, in other words that the Filipino people were from a single racial stock. While it was true that paragraphs 14 and 15 of the report cited data drawn from the 1990 census, they were unfortunately not analysed in such a way as to answer the questions put by the Committee in 1989, in particular those concerning the disparity between the Filipino population as a whole and the 8 million Filipinos belonging to some 110 tribes. The interest of the fourteenth periodic report was essentially to be found in its Chapter V, as the remainder had to be considered in conjunction with the information provided in the tenth periodic report (CERD/C/172/Add.17).

9. He then drew the Committee's attention to a number of specific points arising from the report under consideration. First of all, he had not found the promised update of the information contained in the tenth report. Secondly, he emphasized that, to be effective, the Constitution needed to be supplemented by specific legislation coupled with appropriate administrative and judicial measures, as required by articles 2, 4 and 7 of the Convention. Implementing legislation had already been adopted, although it essentially concerned the indigenous cultural communities and the Filipino Muslims, rather than the population as a whole. However, as the State party had itself recognized in paragraph 18 of its tenth periodic report, the application of the other provisions of the Convention would require the adoption or enactment of appropriate internal legislation.

10. Third, he was surprised that the decree adopted in 1978 by President Marcos, declaring unlawful any violation of the Convention and instituting appropriate penalties, had not been replaced by specific legislation. Despite the Government's assertion in paragraph 25, he doubted that no charges of racial discrimination had been brought against anyone, as there was every indication that the treatment of the indigenous populations and the Filipino Muslims under the Marcos regime had contravened the Convention, and in particular the provisions of article 4.

11. His fourth point concerned the application of article 5. Paragraph 26 of the report referred to the details provided in the tenth report, although there too, information was lacking: there was no mention of the laws protecting constitutionally guaranteed rights, or of the provisions of the revised Penal Code and of the current Civil Code or of the penalties laid down for racial discrimination, or of the appropriate criminal or civil procedure. Violations of personal liberty and security were defined in the revised Penal Code, articles 124 and 126 of which were intended to punish, inter alia, arbitrary detention, although no definitions were given, nor was the relevance

of those two articles to the implementation of articles 4, 5 and 6 of the Convention indicated. Nor was it clear whether article 5 of the Convention had been invoked before the courts and if so, what decisions had been taken.

12. Fifth, although the tenth periodic report had stated that freedom from discrimination in employment was guaranteed by the Labour Code of the Philippines it was questionable whether the Code effectively protected the indigenous peoples and Filipino Muslims. In paragraph 52 of the report under consideration, the State party recognized that during long years of neglect by the central Government, the Filipino Muslims had suffered from a number of problems - widespread poverty and income disparity, limited employment opportunities and inadequate basic social services and support facilities. It seemed that all those factors might well constitute violations of the Labour Code. Regarding the status of the Code, which, like many other items of legislation, had been adopted by decree, he asked what were the respective positions of presidential decrees and acts under domestic law.

13. Sixth, he suggested that the recognition, in paragraph 47 of the tenth periodic report, of disparities between the levels of development of the indigenous communities and the remainder of the population of the Philippines, amounted to an admission that the indigenous cultural communities were the victims of discrimination. Seventh, a number of important legislative and administrative measures were still pending before Congress. They were exceptionally significant steps in the overall efforts of the Philippines to address the major issues and problems of the indigenous cultural communities and Filipino Muslims. It was to be hoped that those bills and regulations would shortly become law.

14. Eighth, the latest report contained no information about cases of racial discrimination brought before the courts. He asked why that was so and whether the indigenous communities and Filipino Muslims were actually protected by law. Which specific laws and provisions of the Penal Code addressed the issue of reparations or compensation? Had the Philippine Commission on Human Rights considered any allegations of racial discrimination, and how did its mandate differ from that of the Ombudsman? Were human rights associations in the Philippines justified in claiming that the Commission was ineffective in gathering information, that it relied too often on the authorities' version of the facts and that its investigative procedure was quasi-judicial?

15. Ninth, in its 1997 report, Amnesty International raised a number of questions, and in particular the question of disappearances and of habeas corpus, which particularly concerned the indigenous populations and the Filipino Muslims. According to Amnesty International, habeas corpus and other judicial remedies had proved ineffective as a means of finding persons who had "disappeared" and bringing them before a judge. Their ineffectiveness was attributable to three interrelated factors: problems of judicial procedures, a lack of cooperation by the police and military and fear of testifying. He asked the Philippine delegation to provide the Committee with details, particularly with regard to the indigenous cultural communities and the Muslim Filipinos.

16. Tenth, paragraph 69 of the tenth report contained an important statement, according to which in the absence of an enabling law, the Constitutional provision was not self-executory. The Constitution guaranteed the principles of equal protection by the law and of due process of law and stated that no person should be deprived of life, liberty or property without due process of law. Such provisions were highly commendable, but yet again the question of legislation to implement those guarantees arose. The Philippine Constitution contained no specific provision prohibiting racial discrimination or distinction based on race, colour or on social, national or ethnic origin.

17. His eleventh and final point was that the information provided in the report under consideration in respect of article 7 of the Convention was highly relevant and showed that the Government of the Philippines had been making serious efforts to introduce education designed to develop awareness not only of human rights in general, but also of the provisions of article 7. Nationwide human rights training programmes had been organized, including study of the concepts of elimination of racial discrimination and cooperation and unity among indigenous cultural communities. Those steps were very important and the Government of the Philippines should be commended for having implemented the provisions of the Committee's General Recommendation V.

18. Turning to the chapter of the report entitled "General statement", he drew attention to paragraphs 4, 5 and 7. Paragraphs 4 and 7 categorically denied that there was any racial discrimination in the Philippines. However, in paragraph 5, it was admitted that there were "apparent racial distinctions or perceived instances of racial discrimination". Clearly, that contradiction required an explanation. He found it difficult to accept the statements made in paragraphs 4 and 7. The situation of the indigenous populations and of the Muslim Filipinos was sufficient proof.

19. Another major problem concerned the composition of the population of the Philippines and the inconsistencies in the information provided. The tenth report had referred to "some 8 million Filipinos belonging to about 110 tribes" out of a total population of approximately 60 million, all of whom were from the same racial stock, the Malays. The latest report did not indicate clearly how many Filipinos belonged to how many tribes, and other sources indicated that there were 12 million people belonging to 116 tribes. Moreover, extremely diverse terms were used to designate the indigenous peoples. Although the most common term was "indigenous cultural community", the terms "different tribes", "ethnic groups" and "national minorities" were also used. He asked for an explanation of the disparity.

20. Ethnic diversity was also corroborated by the large number of languages and dialects spoken in the Philippines, of which the four main ones were Cebuano, Tagalog, Ilocano and Ilongo. Any State party was entitled to recognize or not to recognize the existence of different ethnic groups and to designate them as minorities, ethnic groups or communities. However, the State party should provide the necessary legal, judicial, administrative and other guarantees to everybody under its jurisdiction and promulgate legislation to eliminate racial discrimination. He asked for further details of any relevant measures taken.

21. Turning to chapter V of the report, he drew attention to the definition of the term "indigenous cultural communities". In his view, it was not possible on the one hand to claim that a society was homogeneous and on the other to describe persons as indigenous on account of their social origin. If the indigenous peoples in the Philippines described themselves as such, their choice and rights should be respected. Any form of or attempt at assimilation, if not voluntarily accepted, would be contrary to the spirit and letter of the Convention.

22. The report under consideration contained detailed information on the measures taken by the Government of the Philippines to improve the situation of the indigenous peoples and of the Muslim Filipinos: equal employment opportunities, agrarian reform, recognition of ancestral lands, social infrastructure, education, health, technology transfer and preservation of the cultural heritage, etc. However, the Committee on the Rights of the Child had recommended that the Government of the Philippines take steps to eliminate discrimination against certain groups of children, especially those belonging to the cultural communities. He asked for details of any such measures.

23. Several bills of direct concern to the indigenous peoples and Muslim Filipinos had to do with the key issue of ancestral lands or domains. Although the approval by President Ramos of bill No. 1476, in the hope of speeding up the adoption of legislation to settle the issue was encouraging, the required legislation was still lacking and the "certificates" referred to in paragraph 43 of the fourteenth report were not deeds of property. The problem remained unresolved.

24. Another important question concerned the autonomy of the Cordillera region. After a plebiscite organized on 30 January 1990, only one of the five provinces in the region had approved the act on autonomy. He asked why the four other provinces had not approved the act. Moreover, according to an independent survey, the Lumad, who used to exercise control over a vast territory encompassing 17 provinces, were apparently a majority in only 7 towns nowadays. The Moro, who had controlled a territory encompassing 15 provinces and 7 towns, currently controlled only 5 provinces and 13 towns. He asked why that was so. The aspirations of the Lumad were well known: the right to self-determination, self-governance within their ancestral lands, revocation of the permits issued to companies and individuals to conduct forestry, mining and agricultural activities on their tribal lands and an end to the militarization of the indigenous peoples' territories. He asked how many of those demands had been met by the bill on the indigenous populations being considered by Congress. Were the indigenous peoples prepared for self-governance and to take part in the decision-making process? Had the Government of the Philippines given them sufficient training to exercise their political rights, and what guarantee was there that those rights would not remain theoretical?

25. Finally, he said that he had been able to ask so many questions because of the excellent quality of the reports submitted by the Government of the Philippines. He commended the Government and expressed the hope that the State party would continue to entertain a constructive dialogue with the Committee.

26. Mr. VALENCIA RODRÍGUEZ said he welcomed the comprehensive and instructive information in the report on the measures taken by the Government of the Philippines to comply with its obligations under the Convention. The additional information provided by the delegation of the Philippines, together with the exhaustive analysis made by the country rapporteur, provided a better understanding of the situation. Although the vast majority of the population was of Malay origin, there were also other ethnic groups, a majority of whom were Chinese, representing 0.02 per cent of the total population. While it was possible to accept the statement made in paragraph 4 that racial discrimination as it had been practised in South Africa had never existed in the Philippines, it was also necessary to recall that the Committee had repeatedly said that no society, no matter how homogeneous it might seem, was safe from racism.

27. It was recognized in paragraph 5 of the report that colonialism was responsible for the disparities between the level of development of the majority of Filipinos and that of the small number of inhabitants who had remained attached to their indigenous cultural heritage. In addition, chapter III contained valuable information on the differences in levels of development of the indigenous cultural communities. All those factors led him to express reservations about the assertion in paragraph 7 that discrimination based on race, colour or ethnic origin was non-existent in the Philippines. Nonetheless, the adoption of Presidential Decree No. 1350-A, whose purpose was to implement the provisions of the Convention in the country, should be commended.

28. He noted that the State party recognized and protected the rights of the indigenous cultural communities - for which the Committee could commend it - although it denied that it treated them differently from the remainder of the population despite its admission that they had not reached the same level of development as the majority of Filipinos. He asked how it was possible to promote equality for all without providing special treatment for the most underprivileged.

29. He welcomed the establishment of the Philippine Commission on Human Rights and asked for additional information on its activities. He asked whether the Commission was authorized to penalize human rights violations and whether the population as a whole, and lawyers and judges in particular, were familiar with the main provisions of the Constitution so that all victims of racial discrimination could defend their rights before the courts. He noted with satisfaction that Executive Order No. 27, of 1986, instructed the Department of Education, Culture and Sports to include the study and understanding of human rights in the curricula of all schools and to initiate programmes and projects to provide information on and discussion of human rights. He welcomed the organization of a "writeshop" on peace education modules, in which writers belonging to the indigenous cultural communities had participated.

30. Turning to chapter V, he noted with satisfaction the definition of "indigenous cultural communities" provided in paragraph 29 and the fact that the term also encompassed persons classified as indigenous because they descended from populations who had been living in the country at the time of conquest or colonization. He also commended the Government on the various

programmes it was conducting on behalf of those communities as part of the Social Reform Agenda. He would like to know to what extent the Comprehensive Agrarian Reform Law of 1988 and the National Integrated Protected Areas System Act of 1992 had made it possible for the indigenous cultural communities to assert their claims to their ancestral lands and to gain satisfaction. He asked whether Congress had adopted the bill concerning property rights and relations over ancestral domains and the bill on the rights of the indigenous cultural communities and peoples.

31. With regard to paragraph 46 of the report, he recommended that everything possible should be done to ensure the application of the measures provided for under the Comprehensive Agrarian Reform Programme and asked the Government to inform the Committee of the Programme's results.

32. The Government should be commended for its action on behalf of the Muslim Filipinos, who faced numerous problems: widespread poverty, income disparities, limited employment opportunities and inadequate basic social services and support facilities. The measures adopted might need to be strengthened in view of the scale of the difficulties facing those seven and a half million individuals.

33. Mr. DIACONU said that he welcomed the gradual introduction of democracy into the Philippines. He noted with satisfaction that the Philippine Government had taken a number of measures on behalf of the indigenous cultural communities and the Muslim communities. Even more significant, the Government had acknowledged the link between those communities and their ancestral lands. He was also gratified by the special measures adopted, in the spirit of article 1, paragraph 4 of the Convention, on behalf of those populations.

34. He said that he was intrigued by the assertion made in paragraph 7 that discrimination based on race, colour or ethnic origin was non-existent in the Philippines because Filipinos had essentially the same racial and ethnic origins and because such practice had never been implemented officially. Nonetheless, the definition of the "indigenous cultural communities" provided in paragraph 29 amounted to recognition that there were distinct groups. The definition in question was, moreover, akin to the definition of minorities to be found in numerous international instruments.

35. Paragraph 17 of the report stated that the Constitution mandated Congress to enact measures aimed, inter alia, at reducing social, economic and political inequalities and removing cultural inequities. However, there was no information on the actual application of any such measures. He recalled that when the Committee had considered the 1988 report of the Philippines it had requested statistics so that it could assess the extent to which the provisions of article 5 were put into practice.

36. He doubted that the Philippine authorities had complied with the requirements of article 4 of the Convention merely by promulgating a presidential decree declaring unlawful and penalizing violations of the Convention. He emphasized that States parties were specifically required to adopt legislative measures to ensure the implementation of the Convention.

Accordingly, he urged the Government to review national legislation in order fully to implement article 4 of the Convention, and to inform the Committee of the results of the exercise.

37. Mrs. ZOU said that she too had noted several contradictions in the report. Paragraph 5 stated that there had never been any racial discrimination in the Philippines in traditional society, even though the same paragraph described disparities in standard of living and access to land, education and employment, between the majority of Filipinos and those who had clung to their indigenous cultural heritage, a situation which, according to the report, resulted in apparent racial discrimination. She asked for further clarification. Moreover, according to the 1990 census, there were 2,757,020 Muslims (para. 14), whereas, according to a survey conducted by the Office of Muslim Affairs, their number was 6.6 million in 1992. She asked what the actual figure was.

38. She would appreciate further information on the protection of the children of the indigenous cultural communities. She asked how many children had access to education, how many primary and secondary schools there were, and what languages were used in the public services.

39. Paragraph 39 of the report stated that Senate Bill No. 212 on equal employment opportunities in all offices, agencies or branches of Government allotted a minimum of 15 per cent of all positions to members of the indigenous cultural communities. She asked what stage the bill had reached and what was the percentage of Muslim Filipinos in the civil service. She also inquired whether the members of the indigenous cultural communities and Muslim Filipinos working in the agricultural sector had the same educational opportunities as other segments of the population.

40. Mr. de GOUTTES said that he wished to emphasize the numerous positive developments described in the report, beginning with the establishment of an independent commission on human rights. He would appreciate further information on the Commission's activities. With reference to paragraph 18, he was interested to note that, for the first time, the rights of the indigenous cultural communities and of Muslim Filipinos were enshrined in the Constitution. He noted with satisfaction the progress achieved in respect of access to employment, education and basic services and the protection afforded to the rights of the indigenous cultural communities living on their ancestral lands. He was pleased to note that the Constitution provided for the creation of autonomous regions in the Muslim region of Mindanao and in the Cordillera.

41. Nevertheless, he was unconvinced by the assertion that there had never been any racial discrimination in traditional Philippine society. It was possible to conclude from paragraph 5 that traces of racial discrimination that might give rise to complaints or criminal proceedings persisted. Regarding the presidential decree mentioned in paragraph 25, he asked whether it was equivalent to an actual legal instrument declaring any violation of the Convention punishable by law. He suggested that it might be more appropriate to incorporate the provisions of the decree into the Penal Code.

42. He would appreciate further information on the peace agreement signed between the Government and the Moro National Liberation Front. According to

Amnesty International's 1997 report, despite the Government's efforts to involve the Moro National Liberation Front in the peace negotiations, the regular forces were still fighting some armed groups operating in the region of Mindanao, and there had allegedly been bombardments which had caused civilian victims; Muslim, Christian and indigenous communities had allegedly been displaced, particularly in the areas of development projects. He asked for information on the situation.

43. Lastly, he encouraged the Philippine Government to make the declaration provided for by article 14 of the Convention.

44. Mr. van BOVEN said that he welcomed the presence within the delegation of representatives of the various indigenous communities. Generally speaking, he was not wholly satisfied by the structure of the report, which on the one hand provided information on the general implementation of the various articles of the Convention, and on the other described measures designed to foster the interests and well-being of the indigenous cultural communities and of the Muslim Filipinos, suggesting that the indigenous population and the Muslims formed a separate category. In addition, there were a number of inconsistencies in the report, to which the country rapporteur and other members of the Committee had already drawn attention. It was regrettable that the report had not been set out in the same way as the previous one.

45. Regarding the application of articles 2 to 7 of the Convention, the Government had merely repeated the information contained in the previous reports. Apparently, then, the Convention was not a dynamic instrument in the Philippines. However, the section on the measures designed to advance the interests of the indigenous cultural communities and Muslim Filipinos showed that their situation had progressed.

46. He said that he would appreciate further details about the activities of the Office of Muslim Affairs, referred to in paragraph 54. In respect of paragraph 57, which mentioned the enactment of Act No. 6734 creating the Autonomous Region in Muslim Mindanao, he asked why certain regions had chosen not to belong to the Autonomous Region. He questioned the wisdom of introducing autonomy in the absence of agreement among all the interested parties.

47. Like Mr. de Gouttes, he urged the Philippine Government to make the declaration provided for by article 14 of the Convention.

48. Mr. AHMADU pointed out with regard to paragraph 4 of the report, which stated that there had never been any racial discrimination in the Philippines, that in many instances it was easier to combat institutionalized apartheid than other forms of segregation. He had read with special interest - on account of his own faith - part B of chapter V concerning Muslim Filipinos, whose number had apparently increased considerably in just a few years (para. 14). There was nothing surprising about that because Muslims were polygamous, did not practise birth control and currently enjoyed far better living conditions than in the past. He asked whether the Tripoli Agreement, which predated the one referred to by Mr. de Gouttes, was actually applied and to what effect. He asked to what extent the Muslim community was integrated, particularly in the civil service, the judiciary, trade, industry and the

diplomatic service. Although numerous bodies had been set up, information on their functioning would be valuable. He would be interested to know when Islam and Christianity, respectively, had been introduced into the Philippines; his impression was that the former had been relegated to the rank of a minority religion after the enforced adoption of the latter. He would also appreciate more comprehensive information on how the Shariah operated alongside the secular regime when a conflict occurred between Christians and Muslims, and whether the parties could decide which system applied. Lastly, regarding the status of the provinces inhabited by Muslims, he asked whether they really were autonomous at all levels of their administration or whether they enjoyed only partial autonomy.

49. Mr. SHAHI said that he too was disturbed by a number of contradictory statements in the report concerning, on the one hand, the alleged absence of racial discrimination in the Philippines because Filipinos all came from the same racial stock (paras. 5 and 7), and on the other hand the presence of indigenous cultural communities (para. 29). Nevertheless, the concrete measures by which the Government intended to apply the provisions of article 2, paragraph 2 of the Convention to the indigenous communities should be commended. He would also like to know to what extent the peace agreement signed with the Moro National Liberation Front (MNLF) was likely to ensure that the communities enjoyed equitable decision-making power in respect of national administration and policies and to vest them with sufficient autonomy, particularly regarding the Shariah.

50. Mr. WOLFRUM expressed satisfaction that it had been possible to resume the dialogue with the Government of the Philippines. Although he did not intend to repeat all the relevant observations already made, he wished to associate himself with Mr. van Boven in deploring that the report, which should form a whole, had been divided into two distinct parts. The measures adopted by the Government of the Philippines on behalf of indigenous communities apparently complied with the recommendations on the return of land to indigenous communities which the Committee itself planned to adopt in a draft recommendation under consideration; he asked, however, whether those measures could be easily applied. In a case already brought to his attention, a clan had for months been claiming the return of 500 hectares of land; its claim was disputed by the majority tribe, which was better represented on local bodies and which had not hesitated to employ violence. He asked what the Government had done to settle the dispute by peaceful means. In a similar case, since 1988 a tribe had been demanding the return of 2,000 hectares of ancestral land, without so far obtaining satisfaction.

51. Mr. CHIGOVERA said that he too had noted contradictions in the report, which denied the existence of racial discrimination in the Philippines while nevertheless listing the measures taken by the Government to remedy the inequalities affecting the indigenous cultural communities. Apartheid, which was the subject of article 3 of the Convention, was an institutionalized and particular form of discrimination, but its absence did not mean that there were not other forms of discrimination covered by article 1, which could be attributable to individuals as well as to the authorities.

52. Mr. SHERIFIS, referring to paragraph 43 of the report and in particular to the approval expressed by President Ramos for Senate Bill No. 1476 on the

recognition, protection and promotion of the rights of indigenous peoples, asked whether that legislation signified the full implementation by the Philippines of the provisions of article 5 of the Convention concerning, inter alia, freedom of movement and freedom to own property. He also commended the Government of the Philippines for the conclusion of a peace agreement with the Moro National Liberation Front and wished it every success in the implementation of that agreement, which was likely to prove difficult.

53. The CHAIRMAN invited the delegation of the Philippines to reply to the questions put to it by the Committee at the next meeting.

The meeting rose at 6.05 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1219th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 August 1997, at 10 a.m.

Chairman: Mr. BANTON
later: Mr. GARVALOV

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh to fourteenth periodic reports of the Philippines (continued) (CERD/C/299/Add.12; HRI/CORE/1/Add.37)

1. At the invitation of the Chairman, the Philippine delegation resumed its place at the Committee table.

2. Ms. BAUTISTA (Philippines), replying to the issues raised at the previous meeting, said that the report (CERD/C/299/Add.12) reiterated the enumeration of laws contained in the previous report out of a concern to explain what was being done to implement the Convention. The Government would, however, follow the Committee's wishes in that regard. The annexes contained a list of various programmes undertaken to implement the Convention following an assessment of the needs of the indigenous cultural communities (ICCs). Regarding the validity of Presidential Decree No. 1350-A, which had been passed during the Marcos regime, under martial law, the President had both legislative and executive powers; presidential decrees were similar to statutes, had force of law and could not be repealed by executive order alone. The Supreme Court had ruled that if such decrees were not inconsistent with the Constitution and subsequent laws, they remained in force even after the lifting of martial law. The decree did not appear in the Revised Penal Code because it took some time to compile criminal statutes, but would eventually be included.

3. As to the possible discrimination of the labour laws against indigenous cultural minorities, Philippine laws applied to all citizens even where there was no specific legislation to protect them, because of the principle of equality of all before the law. The absence of specific legislation did not mean the labour laws did not apply to those minorities. Existing disparities within the ICCs did not per se constitute discrimination; if such disparities existed, they did so in other communities as well.

4. Bills were not laws, but some had been mentioned because the Executive intended to push them through Congress; the President had urged their passage by November 1997. Some of the bills referred to in the report would be consolidated into a more extensive bill on indigenous peoples. As to delays in Congress in acting on pending bills, Congress represented and was elected by the people, and had its own procedures for enactment and concerns; the Executive could only do so much. If the fact that legislation was not passed meant that the country was in violation of its treaty obligations, it was then for the Government either to withdraw from the treaty or to inform Congress of the violation, but it was for Congress to take the decision.

5. Regarding the distinction between the Ombudsman and the Philippine Commission on Human Rights, the latter had investigative powers but was not a judicial entity and therefore could not pass judgement nor issue penal sanctions. That did not, however, weaken its role as a promoter and protector of human rights; the results of its investigations became the basis for filing

court action, and some of its findings had been affirmed in the courts, thereby becoming implementable. It also had regional offices and a branch for looking into human rights violations.

6. The Country Rapporteur had remarked on the lack of confidence in the judicial system referred to in certain reports. The question was being debated in the Philippines as well. Criticism of the system did exist, and there were some lapses and delays on the part of the judiciary, but by and large the system defended people's rights, and the very fact that numerous cases were being filed suggested confidence in the courts, so perhaps the allegations were unwarranted. That did not mean, however, that there was no room for improvement; the Chief Justice was looking into the allegations and an attempt was being made to streamline the system.

7. Regarding the need for enabling laws to implement the Constitution, the 1987 Constitution reiterated the provisions of earlier Constitutions, specifically on laws enacted prior to 1987, such as Presidential Decree No. 1350-A. The mention of indigenous people in the 1987 text was new but would not require new implementing legislation, as such legislation pre-dated the new Constitution. While enabling laws were generally needed to implement the Constitution, if the provision itself was clear there was no need for implementing legislation, in accordance with the most recent decision of the Supreme Court.

8. The five-member Commission on Human Rights comprised two former judges, a member from the Muslim region, the former head of an NGO and a jurist. The Philippines had ambassadors of Muslim origin in Baghdad, Cairo, Lagos, Bahrain, Oman, Riyadh, Tehran and Tripoli. The core of career officers in the Philippine Foreign Service were representative of the various cultural communities, from dominant Tagalogs to Muslims and indigenous peoples. Whereas anyone could be appointed ambassador, career officers had to pass the most rigorous series of exams in the country.

9. Most cases of forced or involuntary disappearances had occurred under the Marcos regime, and although it was difficult to locate the individuals, the Government continued to try; 122 cases had been cleared, and the number of disappearances had declined drastically, from 145 in 1984 to 5 in 1994, 2 in 1995 and only 1 in 1996. Current cases of disappearance were not due to racial discrimination.

10. In reply to a suggestion that no violations of the Convention had been reported because of a lack of publicity, she said the Philippines Commission on Human Rights was the recipient of an award from the United Nations Educational, Scientific and Cultural Organization (UNESCO) in the field of human rights education; the country had various programmes under way with United Nations agencies on the promotion and protection of human rights. There were some 36,000 NGOs in the Philippines, which drew the Government's attention to its lapses and which the Government viewed as its partners in examining cases of human rights violations. The Philippines was very open and transparent on such matters, as evidenced in the national press. It was ironic that the most open countries were the ones against which cases were brought before the Committee. One such case, to which Mr. Wolfrum had referred, had been submitted to Manila for a reply.

11. On the ancestral lands issue, the Government had issued several certificates of claims while awaiting enactment of the relevant statute, after which the certificates would become certificates of ownership and it would generally be easier for the ICCs to hold title to the lands they claimed. As at July 1997, 1.2 million hectares of land had been issued to them, and the Department of Environment and Natural Resources (DENR) intended to issue 3 million hectares by the end of 1998. The total land area of ancestral domains would approximate 3 to 5 million hectares, of the 30 million total hectares in the Philippine archipelago.

12. The Government was cognizant of the fact that central to the development and promotion of the ICCs was the recognition and protection of their rights to their ancestral domains. The Social Reform Agenda flagship master plan operation sought to put an end to their age-old economic marginalization socio-cultural displacement and political disenfranchisement through the pursuit of well-defined objectives, including the passage of the Ancestral Domain Law. Those ICCs to which certificates had been issued qualified for DENR support in the preparation of the ancestral domain management plan, which was their own unique blueprint for developing those domains. A working group composed of community leaders formulated each community's master plan and presented its results to the community for approval, together with an appraisal of existing resources including community mapping and an assessment of requisite community land uses. The approved plan was then submitted to interested funding agencies. Once funding was secured, the plan was considered ready for implementation; there were now 12 such plans.

13. Under the plans, traditional resource rights were recognized. No DENR permit was required. If livelihood activity involved beeswax, vines, rattan-gathering or hunting, there was no need for a transportation permit. The plan could be used by the community as an investment package for participation by foreign and local funding agencies. It recognized the confidentiality of information on resources. Pending passage of the Ancestral Domain Law, the DENR had also spearheaded the formulation of the draft national plan for indigenous people, in collaboration with the Offices for Northern and Southern Cultural Communities, the ICCs and people's organizations. Project documents were expected to be completed by October 1997, and the project would be funded by international agencies and multilateral and bilateral funding sources. Target implementation date for the plan was January 1998.

14. The Government's policy concerning the major development projects was to engage in dialogue with the tribal groups that might be affected and to try to compensate them for any displacement required.

15. With reference to the apparent sharp rise in the Muslim population from 2.7 million in 1990 to 6.6 million in 1992, the latter figure came from the Office of Muslim Affairs, which believed some tribes might have been overlooked in the National Census Office's 1990 census. According to estimates from both sources, there were some 4 million members of minority communities in the northern part of the islands and some 8 million in the southern part, including Muslims, bringing the official estimate to 12 million, or 18 per cent of the Philippine population.

16. The Government endeavoured to promote equality at different levels of development, by paying special attention to particular groups. Inequality did exist, which was why there was a policy to improve the situation of all people in the Philippines - not just the cultural minorities, but also other groups, such as the poor and women. The poverty alleviation project included everyone, but paid special attention to the ICCs. Special attention did not result in separate treatment for the ICCs, except when exceptions could validly be made under the law; nor did the idea of separate treatment constitute reverse discrimination.

17. As to the statutory nature of the Tripoli Agreement, the Agreement itself made provision for the coverage of the Muslim provinces, but a subsequent law had allowed for a plebiscite in the region, and some people had not opted to be part of the Autonomous Region. The Government did honour the Agreement, in substance, but also had the obligation to give people choices. Another plebiscite would therefore be held to allow those wishing to join the Muslim Autonomous Region in Mindanao to indicate their choice.

18. There was no contradiction between the statement that there was no discrimination in the Philippines based on race, colour or ethnic origin and the definition of the ICCs as comprising people who had descended from populations which had inhabited the country at the time of the conquest. The former statement had first been used in the tenth periodic report, in relation to the type of discrimination formerly existing in South Africa. All Filipinos came from the same racial stock or had been assimilated into the Filipino nation. The fact that there was no discrimination based on race or origin did not, however, mean that there were no disadvantaged or marginalized groups in the country. There were, but it was not because of their ethnicity. In a spirit of transparency, the Government had admitted to past neglect, accepted that insufficient attention had been paid to those groups and was doing everything possible, not to force their assimilation, but to help them in their development and in maintaining their cultural integrity.

19. The Convention referred to conscious acts of discrimination, but the Government had not consciously committed any such acts. No complaints had been filed of violations of the Convention or of discrimination based on origins or membership in a particular group, but there were complaints of human rights violations resulting from such actions as squatting.

20. If the Committee interpreted the Convention as a part of the monitoring process, it must do so within certain limits, but the States parties must be informed of what they were agreeing to. They also had the right to agree or not with the Committee's interpretation. More personal contact and dialogue between the States parties and the Committee would be helpful.

21. Mr. ADAMAT said that the fact that the movement for self-governance was gaining ground and spearheaded by educated indigenous people and Muslims indicated that the indigenous cultural communities (ICCs) were willing and able to govern themselves.

22. He confirmed that the Philippine Government had implemented the Tripoli Agreement. Under the Aquino Government the Autonomous Region in Muslim Mindanao (ARMM) had been created through Republic Act 6734, and put to

a first plebiscite. He lamented the fact that only four provinces had opted to join the ARMM and said many Muslims were dissatisfied at the Government's attempt to implement the Tripoli Agreement because of the largely negative response of the people. There had been a breakthrough under the Ramos administration, with the signing of a final Peace Agreement between the Moro National Liberation Front (MNLF) and the Government in September 1996 and subsequent creation of the Southern Philippines Council for Peace and Development (SPCPD) and the Special Zone of Peace and Development (SZOPAD), which embraced all the provinces targeted in the Tripoli Agreement. Since then, an Executive Council and a Consultative Assembly chaired by the Governor of the ARMM had been instituted. Of the 81 members of the Consultative Assembly, who had been appointed by the President, eight were members of indigenous communities. The government central planning agency and the other government agencies concerned, along with the SPCPD and ICC officials, had been finalizing a comprehensive package of development programmes for the SPCPD ahead of a plebiscite in 1998 through which the people could opt to join the Autonomous Region covering the 14 provinces.

23. The Office of Muslim Affairs, in coordination with other agencies, was engaged in peace and conciliation dialogue with secessionist groups and taking steps to ensure rebel returnees would be constructively involved in their communities. Negotiations between the Government and the MNLF were expected to prosper and usher in peace in the Muslim communities in Mindanao.

24. Ms. BAUTISTA said that she had referred queries on her Government's position on article 14 to her capital. It was her view that her Government's study of the question would have to include reflection on the Committee's interpretation of its monitoring role. The Philippines wanted to avoid failing to fulfil obligations it was unaware existed under the Convention. Unfortunately, the rulings of the Committee had not always been well publicized but the Committee could rest assured that the Philippines would continue to rely on the experienced guidance of the Committee and remain open to its suggestions.

25. The CHAIRMAN assured Ms. Bautista of the Committee's attentiveness to the question of interpretation and its appreciation of her remarks as cause for further reflection and not dispute with the Committee. The Convention was first and foremost between States parties and article 22 provided for settlement by the International Court of Justice of disputes regarding interpretation or application involving two or more States parties. The Committee was acutely aware of its role vis-à-vis States parties on all matters of interpretation. It had been recognized in legal opinion that the Committee should apply only limited interpretation when considering States' parties reports in order to make allowance for application to the particular set of circumstances in a given State. Thus far, the Committee's interpretation had been summarized in its general recommendations.

26. In response to Ms. Bautista's reference to conscious acts of discrimination, he recalled that the Convention also referred to laws or practices which had the effect of creating or perpetuating discrimination - a principle to which the Committee drew attention in General Recommendation XIV and which also guided its consideration of situations in States parties.

27. Mr. SHERIFIS requested clarification of the implications of Ms. Bautista's statement that Filipinos were guaranteed the right to choose whether they wished to remain in autonomous regions. Did it mean that all Filipinos enjoyed the right to settle anywhere they wished, to own property and to freedom of movement?

28. He noted that the Philippine Government was considering its position on the question on individual petitions under article 14 of the Convention but the Committee would be grateful if it would convey its acceptance of the amendments to article 8, paragraph 6, soon, since only 34 States had done so thus far.

29. Mr. ABOUL-NASR agreed wholly with the Chairman's statement on interpretation and Ms. Bautista's comments prompting the statement. Touching on the reference to Muslims in the report, he recalled that the Convention did not deal with religion - it dealt with racial discrimination. While he did not object on practical grounds to Muslims being subsumed under an ethnic group in the report, it was incorrect and confusing to refer to religious groups. A similar practice in eastern Europe had led to a blurring of the lines between religion, ethnicity and race. The religion of the ethnic group discussed in the report was mere coincidence.

30. Mr. van BOVEN said that the issue of Filipino women working as au pairs, domestic workers and entertainers in Asia, Europe and the Gulf States, had been raised. Although they were no longer under the jurisdiction of the Philippine State, they should still be a matter of concern to the Philippine Government because they were sometimes victims of abuse and not afforded protection under labour laws because of the private arrangements they had entered into. Although they were often victims of multiple forms of discrimination, the Philippine State had a responsibility under the Convention towards such women as their nationals and he asked what was being done to protect them. Although articles 11 to 13 provided for a very complicated bilateral procedure, it should be seen as not only a political but also a humanitarian issue. The Philippines might consider using the mechanisms afforded by the Convention to express their concern on humanitarian grounds and avoid dealing with such matters politically. A preliminary response from the Philippine Government would be appreciated.

31. Mr. de GOUTTES endorsed the Chairman's statement on interpretation. He drew attention to the significant role played by the Philippines Commission on Human Rights in an international meeting of national human rights commissions held two years previously in Manila and asked whether it had been involved in the preparation of periodic reports to the Committee and other treaty bodies.

32. Mr. WOLFRUM expressed satisfaction with the responses given to the two issues he had raised and hoped they would be resolved by the time the next report was submitted. He endorsed the Chairman's remarks on interpretation but begged to differ with Mr. Aboul-Nasr's opinion on religion. Religion was intentionally not covered in the Convention but it could sometimes play a part in establishing the identity of a community.

33. On the proposal to hold regional meetings during which reports from States in the region would be considered, he thought perhaps it would not be

possible without the States parties' consent. He asked Ms. Bautista whether she thought it would be worthwhile to discuss the proposal at the next meeting of States parties.

34. Mr. ABOUL-NASR recalled that the decision to exclude religion from the Convention had been prompted by the intention to deal with religion in a separate convention.

35. Article 14 was an optional clause and States should feel free to make the declaration or decline to do so and not feel that their regard for the Convention would be evaluated on the basis of their decision.

36. Mr. DIACONU agreed with Ms. Bautista that States parties were the first called upon to interpret the Convention and they, like the Committee, were entitled to express their opinion, which often differed from that of the Committee. Nonetheless, although the Philippine Government was satisfied that it practised no deliberate policy of discrimination, it should still bear in mind that the Convention also proscribed any distinction that was discriminatory in effect, be it the result of deliberate policies or not and should review its implementation of the Convention in that light.

37. A copy of Presidential Decree No. 1350-A of 1978, referred to by the head of delegation, would be of interest to the Committee so that it could determine whether it complied with the terms of article 4.

38. He pointed out that the reference to Muslims by the Committee was unavoidable and commended the State party's efforts to implement the Convention and build a democratic society.

39. Mr. YUTZIS said that Mr. Diaconu had highlighted the historical wisdom of the Convention and the way in which it reflected the relationship between the objective and subjective elements of an act of discrimination, and he fully endorsed his views.

40. Religion, as the etymology of the word showed, was a link between a group of people based on symbols and rites that identified them as a group, and it brought together people of different backgrounds, ethnic groups and races. The relationship between the ethnic group and its symbols came within the purview of the Convention, as indicated by Mr. Wolfrum and Mr. van Boven. Frequently, however, as in the case of the former Yugoslavia, ethnic and religious elements were juxtaposed and the demarcations were unclear.

41. Ms. BAUTISTA (Philippines) replying to the additional questions, said that there were no restrictions on the free movement of the indigenous communities. They were provided with settlements where they had nowhere to stay but the nomadic communities in particular did not always wish to be confined. As far as the Tripoli Agreement was concerned, their views were respected and there were no restrictions within the areas themselves.

42. The Committee's views on article 8 would be conveyed to the respective authorities.

43. As there were clearly different views within the Committee on the manner and extent to which religion should be covered, the confusion of the State party in preparing the report was understandable. States parties needed guidance by the Committee on the type of information it required and on its interpretation of the Convention. Nevertheless, while members of the Committee, particularly those who had been present when the Convention had been drafted, had a right to make their own interpretations and to give advice within the limits of their authority, the State party also had a right to say whether or not it agreed with them. On the present occasion, the delegation did not disagree with the Committee's interpretation.

44. It had also been difficult for the State party to comprehend what act, whether conscious or not, might have the effect of discrimination in terms of distinction, exclusion, restriction or preference, hence the need for such acts to be clearly defined. Although the Committee made recommendations to the Commission on Human Rights in its reports, the latter merely noted those recommendations. Some way should be found of ensuring that any recommendations adopted by the Committee were adopted in the wider sense for the guidance of States parties. As one of the officers of the Commission, she was involved in continuous discussions as to how the system could be reformed to make it more effective, and that aspect might usefully be discussed, together with the suggestion that the Committee might meet outside Geneva.

45. With regard to the representation of the Philippine Commission on Human Rights in the preparation of reports, although that Commission was an independent body, it was consulted on certain matters and attended meetings, providing much help and guidance, its members being more familiar with the Conventions than Government officials.

46. On the gender issue, far from having a policy of sending its women abroad to work, the Philippine Government would prefer them to remain in the country, and tried to encourage those abroad to return. The women accepted work abroad purely for economic reasons. There were bilateral agreements with some countries with regard to their employment, and the Department of Labour and Employment continually sought to establish others. Belgium in particular had done its best to protect the welfare of Filipino women workers, by penalizing sex tours, for example. There was no way of enforcing recognition of an individual's rights under the Convention in other countries but serious violations which came to light were followed up, and there had recently been court cases where the maltreatment of women had been proved and those responsible had been fined and imprisoned.

47. The CHAIRMAN, clarifying a comment made by the head of the Philippine delegation, said that the Committee's general recommendations were addressed to the State party and not to the Commission on Human Rights. It was consequently for States parties to react to them if they so wished.

48. Mr. GARVALOV (Country Rapporteur) fully supported the Chairman's interpretation made on behalf of the Committee. His own comments did not represent the views of the Committee as a whole, although the Committee would have the task of drafting the concluding observations.

49. He thanked the delegation for its extensive replies, particularly those on the indigenous cultural communities (ICCs) and the autonomy of Mindanao and the Cordilleras.

50. The assurance by the head of delegation that it agreed with the Committee's interpretation of the Convention was reassuring. Committee members might be said to be in an inferior position to the State party in that they were restricted in their interpretation of the articles and provisions of the Convention whereas States parties considered they had the right to interpret the Convention to fit their own particular situation. There were several articles in the Convention, however, notably articles 2, 4 and 6, which used the word "shall" and the Committee had issued a number of general recommendations to the effect that those articles should be considered mandatory. In that connection, it had had disagreements with a number of States parties, particularly with regard to article 4.

51. The Committee preferred to receive as detailed and comprehensive a report as possible. The tenth periodic report had been more informative than the fourteenth.

52. In referring to a lack of confidence in the judiciary, he had been conscious of the situation in his own country where the same problems existed. The delegation could therefore rest assured that the Philippines was not being singled out but was one of many States parties where the judiciary did not always adequately protect and defend the human rights of the individual; the action taken by the Chief Justice of the Philippines was therefore welcome.

53. His reference to enabling legislation to implement the Constitution had been taken from the tenth periodic report. The comment was clearly still valid, judging by the number of bills held up in Congress.

54. A number of issues had remained unanswered, including the question of the discrepancy between the demographic composition of the Philippines in the tenth periodic report and in the 1990 population census, particularly in relation to the 110 tribes, the ICCs, the Filipino Muslims and their ethnic origins. The Committee had raised questions on the Filipino Muslims because they had been mentioned in the fourteenth report and their ethnic origins were not clear. In seeking to ascertain whether their ethnic origins were different from the majority of the population, the Committee was acting fully within the framework of the Convention.

55. Other issues which had not been answered were whether the system of issuing land certificates was successful, given that they were not title deeds, whether the Constitution specifically prohibited discrimination based on race, colour, descent or national or ethnic origin, whether the 1990 population census had collected ethno-linguistic data with respect to the tribes and indigenous communities, whether there was any significance in the different terms used with respect to the ICCs in the tenth and fourteenth reports, and whether a homogeneous society was really the same as people regarded as indigenous, as stated in paragraph 29 of the fourteenth report.

56. The Philippines had reported in 1989 on the issue of ancestral lands and had stated that a bill was pending in Congress; eight years later the issue

remained unresolved. The head of the Philippine delegation had stated that the Executive could not push Congress into passing legislation, yet Congress did not live in a vacuum and needed to concern itself with the rights of individuals and communities. It was encouraging that President Ramos was pressing Congress to produce legislation in the autumn.

57. He remained unconvinced that the ethnic diversity of the indigenous communities and the Muslim Filipinos did not fall within the competence of the Committee or the Convention and considered that more facts on those matters were still needed. A reply to his question about the requests by the Lumads for the revocation of permits secured by companies and individuals to operate logging and mining operations, inter alia, within the tribal territories, would also be useful.

58. The State party was urged to cover those outstanding issues in its next periodic report.

59. The CHAIRMAN said that the Committee saw the encounter with States parties not as an adversarial one but as part of an ongoing dialogue which it hoped would be useful to the State party in fulfilling its obligations under the Convention. The commitment of the Philippines to the objectives and purposes of the Convention was not in question. The Committee's comments represented the views of people across the international spectrum who had built up a body of expertise by examining reports from the many States parties and making comparisons between them.

60. He thanked the head of the delegation both for her leadership and for her expression of interest in the future of the Convention. The Committee currently needed more support and interest from States parties, especially as it was approaching a time of decision. Its members hoped that those decisions would be firmly grounded in an understanding of the problems which the Committee had to address. All too often States parties saw their relations with the Committee in bilateral terms and failed to consider the multilateral dimension.

61. The Philippine delegation withdrew.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Communication from the Permanent Representative of Israel in Geneva

62. Mr. BRUNI (Acting Secretary) said that the Permanent Representative of Israel had submitted a document to the Committee that morning, containing Israel's seventh, eighth and ninth periodic reports for the period 1992-1996. The Permanent Representative had requested that the Committee should postpone its discussion of the situation in Israel, which had been due to take place on Monday, 11 August under the overdue reports procedure, until its next session.

63. Mr. van BOVEN (Country Rapporteur) pointed out that the Committee had also been due to discuss the situation in Israel under its early warning and urgent procedures. It might still wish to do so, even if it deferred consideration of the periodic report. It would be valuable to have a representative of Israel present at the discussion, if possible.

64. After a discussion in which Mr. ABOUL-NASR and Mr. YUTZIS took part, the CHAIRMAN suggested that the Committee should contact the Permanent Representative of Israel to say: (a) that consideration of Israel's latest periodic report would be deferred until the next session; (b) that the Committee would still discuss the situation in Israel under its early warning and urgent procedures on Monday, 11 August as scheduled; and (c) that the Committee warmly invited a representative of Israel to be present at that discussion.

65. It was so decided.

Cambodia

66. The CHAIRMAN, recalling the discussion at an earlier meeting, suggested that the Committee should send a letter to the Cambodian Embassy in Paris, in which it (a) postponed consideration of the situation in Cambodia until its next session in view of the difficult political situation in the country; (b) expressed its concern about the lack of information from the Cambodian Government and invited it to submit further information; (c) emphasized the importance it attached to a regular dialogue with States parties.

67. It was so decided.

Communication from the Permanent Mission of Haiti

68. The CHAIRMAN said that the Committee had received a communication dated 1 August 1997 from the Permanent Mission of Haiti in Geneva, asking for its consideration of the situation in Haiti to be deferred until the next session.

69. Mr. VALENCIA RODRIGUEZ said that Haiti was undergoing a political and social crisis. In the circumstances, it was understandable that the Government had been unable to submit its periodic report. He suggested that consideration of the situation in Haiti should be postponed until the next session.

70. Mr. YUTZIS agreed that Haiti was virtually in a state of collapse and that the Committee should make allowances for its plight.

71. Mr. de GOUTTES (Country Rapporteur) said that, rather than do nothing at all, the Committee might discuss the situation in Haiti briefly and make some comments which might help the Government in its subsequent preparation of the periodic report.

72. Mr. GARVALOV pointed out that the Government of Haiti had not promised to submit a report before the next session. If the situation there was so serious, the Committee might need to consider including Haiti in its urgent and early warning procedures.

73. Mr. YUTZIS suggested that Mr. de Gouttes should prepare a letter to the Government of Haiti, stating the Committee's concern about the situation in the country and its implications for the issues covered by the International Convention on the Elimination of All Forms of Racial Discrimination.

74. Mr. Garvalov took the Chair.

75. Mr. AHMADU agreed that consideration of the situation in Haiti should be postponed. The Committee should reply to the letter sent by the Permanent Mission of Haiti, saying that it hoped to receive the overdue periodic reports soon. He felt that there was a need for an established procedure to deal with States parties which wrote to the Committee requesting a postponement.

76. Mr. de GOUTTES (Country Rapporteur) suggested that he should briefly tell the Committee of the conclusions he had reached from his study of the situation in Haiti, so that members' comments could be incorporated in the letter to the Government of Haiti.

77. Mr. SHERIFIS and Mr. van BOVEN agreed with Mr. de Gouttes' proposal.

78. The CHAIRMAN suggested that Mr. de Gouttes should share his conclusions about the situation in Haiti with the Committee and should then prepare a letter to the Government of Haiti along the lines suggested.

79. It was so decided.

The meeting rose at 1 p.m.

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Fifty-first session

SUMMARY RECORD OF THE 1220th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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Thirteenth periodic report of Denmark

This record is subject to correction.

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GE.97-17707 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Thirteenth periodic report of Denmark (CERD/C/319/Add.1)

1. At the invitation of the Chairman, Mr. Klingenberg, Ms. Christensen, Ms. Andersen, Ms. Holt, Ms. Klingsey, Ms. Troldborg, Ms. Hübertz Mortensen, Mr. Hortenberg and Mr. Frederiksen (Denmark) took places at the Committee table.

2. Mr. KLINGENBERG (Denmark) said that his country's periodic reports were widely distributed and available on the Internet as soon as they were submitted to the Committee. The Committee's conclusions were forwarded to all relevant authorities, to members of Parliament and to relevant NGOs. They were freely available to everyone and the subject of a full press release.

3. One of the most difficult problems was maintaining the delicate balance between freedom of expression and freedom from racial discrimination. Minority jokes and discriminatory remarks undoubtedly hurt. Penal prosecution, however, was not always the most efficient way of curbing such distasteful practices. The same applied to combatting neo-Nazi and similar tendencies. There was a risk that such tendencies might be given too much credit and too much publicity by a trial in court. Should books like "Mein Kampf" be banned, or might such a measure only increase their appeal in some quarters? Was it not better to fight those obnoxious tendencies through information and education? After all, no one doubted the strong and unequivocal position in that respect of the Government, politicians and the public at large in Denmark.

4. Racial discrimination and racial segregation were prohibited under Danish law and all possible steps were taken to combat their manifestations. No specific entry appeared under article 3 because all the other steps described in the report served directly or indirectly to implement the provisions of that article.

5. There were two aspects of Danish policy which has given rise to concern. The first was related to housing, particularly the possibility of conducting experiments in the field of renting and allotment of social accommodation. The Ministry of Housing and Building had explained that those experiments respected international agreements on racial discrimination and human rights, as well as national rules prohibiting racial discrimination. The second aspect was related to education, in particular the transfer of bilingual children to special classes. The purpose in that case, however, was to offer the children adequate instruction. The differential treatment was based on objective criteria and was maintained in each case only until the objective had been achieved and never for more than two years.

6. Unemployment, at 8.5 per cent in 1996, affected a disproportionately high number of immigrants. The rate had fallen by 20 per cent of the labour force from 1995 to 1996, but only by 12 per cent for foreign nationals. At the same time, however, the number of foreign nationals in the labour force

had actually increased. Despite the positive trends, those figures were of great concern to the Danish Government, which had taken special initiatives at all levels of the labour market. For example, according to the so-called "ice-breaker arrangement", Danish businesses in the field of trade, services and production with up to 250 employees could be subsidized by the State if they recruited a highly educated immigrant or refugee. The latest statistics on the arrangement indicated that two out of every three immigrants or refugees recruited in that way continued their employment on a permanent or temporary basis after the period of subsidies. In addition, on 30 June 1997, the Ministry of Finance had published a circular on the general prohibition of any discrimination affecting recruitment or working conditions in the public sector on the basis of race, colour, religion, political opinion, sexual orientation, as well as national, social or ethnic origin.

7. A new Act on the Board for Ethnic Equality had been adopted in June 1997. Like the previous Board, the task of the new Board was to prevent discrimination between persons of Danish origin and persons of other ethnic origins. It did not deal with individual cases but could, upon request or on its own initiative, make statements on general matters concerning ethnic discrimination. The Minister for the Interior appointed some members of the Board amongst persons belonging to ethnic minorities and to humanitarian organizations, while other members were appointed by local authorities, trade unions and employers' organizations.

8. In another development, the Committee on the Integration of Refugees and Immigrants, which had been set up by the Ministry of the Interior on 16 May 1997, had submitted a report on integration with a draft bill. It was the first attempt in Denmark to formulate the principles of overall, coordinated integration measures for refugees and immigrants.

9. Denmark participated actively in the European Year against Racism, and a National Committee of eight members had been set up for that purpose. The general funds of the Ministry of the Interior for refugee and immigrant projects, which came to 12 million Danish crowns, gave priority to campaign activities, which were aimed at involving new individuals and circles in the work against racial discrimination. In Denmark, the campaign would focus more on local action than on national events.

10. The Danish delegation appreciated the interest taken by the Committee in the highly complex issue of the transfer of Inuit people in Thule (Greenland) in 1953. A lawsuit had been brought against the Prime Minister's Office to obtain damages. The populations in Greenland and the Faeroes did not consider themselves as national minorities, but as independent peoples in the Danish State. The German-speaking population in the south of Jutland, however, was a national minority, which enjoyed specific relations with the rest of society.

11. Mr. WOLFRUM (Rapporteur for Denmark) said that that country's report complied with the Committee's guidelines. In conformity with article 2 of the Convention, the Government of Denmark had reported the establishment of a committee on the integration of Bosnian war refugees, refugees and immigrants, whose recommendations were to have been submitted at the beginning of 1997. Had the recommendations indeed been submitted, and if so, what was there content? Did the Government of Denmark consider returning Bosnians to their

homes, and if not, had it taken into consideration the fact that non-repatriation might consolidate the efforts of ethnic cleansing in Bosnia-Herzegovina?

12. Paragraph 7 stated that the same Integration Committee was formulating a common minimum standard for the integration effort offered to refugees and immigrants. What was regarded as the common minimum standard, and to what extent were international rules taken into consideration? What was an immigrant expected to do in order to become integrated in Danish society? Was there an obligation to learn the Danish language or to become accustomed to the Danish way of life or to send children to Danish schools?

13. Significant appropriations were devoted to the integration of refugees and immigrants in Denmark and the Danish Government's efforts to improve the situation of foreigners were extremely laudable. The impact of programmes such as the "ice-breaker arrangement" was limited, however, by the conditions in which they were implemented, and the report showed that while only 9 per cent of Danish nationals were unemployed, the rate among foreigners was 28 per cent. For Turkish nationals, the rate was even 48 per cent and he wondered to what extent they had benefited from the so-called "ice-breaker arrangement". In the Danish Parliament, the Ministry of Labour had stated that the new Act on Prohibition against Differential Treatment on the Labour Market did not called for special measures in favour of minority groups. Another example was the case of an NGO wishing to fill an administrative staff position, which had published a job advertisement stating that ethnic minorities were invited to apply and that, with equal qualifications, they would be given preference, one of the reasons being that the organization needed multi-ethnic qualifications. The Minister of Labour had considered that the advertisement was a violation of the Act on Prohibition against Differential Treatment on the Labour Market. He wondered whether the attitude taken by the Minister was in full conformity with article 2, paragraph 2 of the Convention.

14. Under that article, the Danish Government was called upon to review national and local policies and to amend, rescind or nullify any laws which had the effect of creating or perpetuating racial discrimination. The report did not show whether those provisions had produced the desired effects. For example, the Danish Centre of Human Rights reported discrimination in the context of the Act concerning Personal Names. In Denmark, parents had to choose first names for their children from a specific list of legal names. In one case, a Somali family had been denied the right to give their daughter a name which did not appear on the list. In that respect, Danish legislation did not appear to reflect the cultural diversity which currently existed in Denmark.

15. The report provided no replies to the questions raised by Mr. van Boven and Mr. Banton during consideration of the previous report, with regard to the Committee's general recommendation concerning article 3 of the Convention. The information given in the report concerning the implementation of article 3 was in fact rather limited. Yet the Documentary and Advisory Centre on Racial Discrimination and the Danish Centre of Human Rights had reported that a number of emergency centres for the protection of women who had been abused had introduced quotas for the numbers of foreign women admitted at the

centres. If that information was correct, that would amount to a violation of article 3. When asked to put an end to the practice, the Minister of Social Affairs had declined to intervene, alleging that the centres did not have enough employees who spoke foreign languages. That explanation was unacceptable.

16. With regard to the implementation of article 4 of the Convention, according to paragraph 25 of the report, it had been declared in the Danish parliament, during readings of the bill amending section 266 (b) of the Penal Code (para. 24), that in especially aggravated cases of racist propaganda, prosecutors should not exhibit the same restraint with regard to prosecution as previously. Was that restraint to be explained by the judgement of the European Court of Human Rights in the Jersild v. Denmark case? Why was the newspaper Ekstra Bladet not prosecuted under those provisions, after publishing an article ridiculing minorities and asylum seekers? The hate campaign started by the newspaper against ethnic minorities in Denmark appeared to indicate a general degree of hostility towards foreigners in Denmark. An explanation would be welcome. With respect to article 4, paragraph (a), how could the fact be justified that the Oasen radio station, which was run by a neo-Nazi association, was still authorized to broadcast locally, after passages of Mein Kampf had been read on the programme? On 2 July 1995, an attack was carried out by "skinheads" in a train near Copenhagen, but the courts which had judged the case had made no reference to the racist character of the attack, even though under the Danish Penal Code that could have been considered as an aggravating factor.

17. He welcomed the adoption of a new marketing act, while regretting the fact that the report under consideration had not mentioned two cases of violations of that act reported by the consumer ombudsman, namely the denial of sale of mobile phones to foreigners on account of their nationality and the denial of car rental to foreigners who did not possess a credit card. What could be said about the Danish Centre of Human Rights' report that foreigners residing in Denmark had experienced difficulties obtaining housing loans?

18. With regard to the application of article 5 and more particularly the Act on Prohibition against Differential Treatment owing to Race, it was stated in paragraph 80 that the period under review had not seen any cases leading to conviction on the basis of that act. The cases referred to nevertheless indicated that a problem did exist in that respect in Denmark and it would be appropriate for the Danish Government to deal with the matter in its forthcoming report.

19. With regard to the application of article 7 and educational measures, he was surprised that the organization of vocational training courses meeting the special needs and wishes of refugees and immigrants was still at the stage of a pilot project and that once again the focus appeared to be on learning Danish. In other respects, the Danish authorities were to be congratulated on their efforts to integrate members of minority ethnic groups in the police forces and to improve relations between the police and the public in areas inhabited by large ethnic groups.

20. With regard to Greenland, he recalled that the Committee, at its forty-eighth session, had expressed concern over the delay in compensating

members of the indigenous population in Greenland who had been relocated to permit the establishment of an Air Force base in the early 1950s. The Danish delegation had just declared that the matter was being investigated. In fact it had been under investigation for decades. It was clear both from the report under consideration (paras. 130, 132 and 134) and from other documents, such as the memorandum of 18 March 1997 from the Prime Minister's Office, or the parliamentary debate on 26 November 1996 on the same subject, that the Danish authorities were reluctant to tackle the problem head-on and were minimizing the extent of the damage suffered by the population concerned, as well as the size of that population and even its rights over the territory involved. Regardless of the legal point of view, the authorities had shown little sensitivity concerning the real needs of the people concerned. It should be remembered that the Convention covered all persons under Danish jurisdiction. It would also be interesting to know how the Danish legal system had been adapted to traditional Inuit legal practice and customary law (para. 140).

21. Lastly, it was to be hoped that in its following report, Denmark would comment on the situation regarding the inhabitants of the Faeroes. The brochure forwarded by the Danish delegation to the Committee concerning the German minority living in Denmark gave the impression that the situation regarding that minority was satisfactory.

22. The CHAIRMAN, speaking as a member of the Committee and former Rapporteur for Denmark, endorsed most of Mr. Wolfrum's comments, especially those concerning the memorandum from the Prime Minister's Office. He did not, however, think that the judgement of the European Court of Human Rights in the Jersild v. Denmark case explained the restraint shown by Danish prosecutors with regard to prosecuting extremist and racist propaganda. Moreover, he was not sure that a book like Mein Kampf should be banned, since that would prevent any serious study of that kind of writing. During consideration of Denmark's previous report, the Committee had requested further information regarding the conditions under which housing was rented to immigrants and regarding measures taken to avoid the concentration of immigrants in the same neighbourhoods. What was the current situation in that respect?

23. Mr. DIACONU, recalling that Denmark had ratified the Council of Europe's Framework Convention for the Protection of National Minorities, noted that Denmark had recognized only the German community as a national minority. What distinction did Denmark draw between a national minority and an ethnic minority?

24. With regard to article 4 of the Convention, the Danish authorities appeared to give a limited interpretation to the notion of racist propaganda (para. 26 of the report). It was worth noting that organizations indulging in such propaganda were not banned in Denmark.

25. He welcomed the adoption in 1996 of the Act on Prohibition against Differential Treatment on the Labour Market. In that respect the cover formerly limited to the public sector had been extended to the private sector. Why did the Act, however, not apply to Greenland and the Faeroes? Demonstrations had recently been held in Denmark by second-generation immigrants. The mayor of Copenhagen had considered on that occasion

that measures needed to be taken in favour of immigrants in the areas of employment and education. What had the Danish authorities done in that respect?

26. With regard to education, he welcomed the fact that Danish language instruction was being offered to bilingual children who had not yet started school and that teacher-training institutes were adding courses specially aimed at educationalists and teachers belonging to ethnic minorities. What was the situation regarding measures for regrouping children from minorities in special schools which were far from their homes? Was that not a case of segregation?

27. He would also like to know what measures Denmark considered taking to compensate indigenous people who had been displaced in the region of Thule and to ensure that those people recovered their right to their ancestral lands.

28. He was intrigued by the reasoning according to which the system of quotas applied in towns to persons belonging to minorities was supposed to protect those persons against racial attacks. Its effect was to exclude them rather than to implement anti-racist laws. Certain discriminatory acts, such as that of 1981 on the naming of persons, should also be reviewed.

29. It appeared that the authorities' reactions to racist campaigns, particularly that conducted by the newspaper Ekstra Bladet, had been subdued, as if the judgement of the European Court of Human Rights in the Jersild v. Denmark case had given them an excuse to do nothing. Moreover, the fact that complaints against racial discrimination were not received by the police prevented the manifestations of such discrimination from being combated.

30. He would also like to have more information on the special measures taken in favour of ethnic minorities, especially as part of the "ice-breaker arrangement" referred to in paragraphs 15 to 18 of the report.

31. Mr. VALENCIA RODRÍGUEZ welcomed the move by the Minister for the Interior in 1994 to set up the Committee on the Integration of Bosnian War Refugees, Refugees and Immigrants, referred to in paragraph 3 of the report. While it was still too soon to have much information on the activities of the Committee, whose aim was to integrate the persons concerned in all areas of Danish society, he would have liked to receive further details in due course. The report indicated that, since 1996, Danish businesses with up to 250 employees could be subsidized by the State if they employed a highly educated immigrant or refugee (para. 15). Why had businesses with over 250 employees been excluded from the benefit of this so-called "ice-breaker arrangement"? With regard to employment policy in the public sector, with particular reference to paragraph 21, it was worth bearing in mind that ethnic minorities encountered greater difficulties than other sectors of the population and should therefore be provided with better job opportunities.

32. When the bill amending article 266 (b) of the Danish Penal Code, directed against racist propaganda, had been read in Parliament, it had been stated that prosecutors would in future have the possibility of instituting proceedings on their own initiative or on the basis of approaches from NGOs.

It would be worth knowing whether prosecutors had taken advantage of the opportunity. It would also be useful to have further details concerning the convictions for violations of article 266 (b) of the Penal Code, which had occurred in four cases (para. 29 et seq.) With regard to the Radio Oasen case referred to in paragraphs 36 to 39 of the report, it was worth noting that while censorship was not allowed in Denmark, a broadcasting licence might be withdrawn from a local radio station if it did not comply with the rules on radio and television broadcasts. It would be up to the competent Danish authorities to give a final ruling on the reading of Mein Kampf on Radio Oasen, since that reading would obviously have had a much greater impact than if it had taken place in private. It would be interesting to know in due course whether any legal proceedings had been initiated in that respect.

33. He would like to have details concerning the type of special measures taken by the Danish Government to integrate ethnic minorities into the labour market and to combat ethnic discrimination (para. 50), and the results achieved. In the case of advertisements worded in such a way as to exclude applicants belonging to an ethnic minority group (para. 61), had the authorities in fact come across that type of advertisement in practice and, if so, what measures had been taken?

34. With regard to town planning, he wanted to know what action had been taken following the bill to amend the Public Housing Act in order to allow municipalities to offer that type of accommodation to groups other than those with special needs (para. 69). Had the bill been abandoned and, if so, why?

35. With regard to the enforcement of the Act on Prohibition against Differential Treatment owing to Race, it would be interesting to know the outcome of the cases mentioned in paragraph 80, subparagraphs (b) and (c).

36. The measures referred to in paragraphs 98 to 103 concerning police training were to be welcomed, but it would be useful to know in due course what results were achieved with the measures referred to in paragraph 100, and more particularly with the preparatory course directed at ethnic minorities who were considering applying for admission to the Police Academy, as well as advertisements for recruitment to the prison service (para. 103). He would also like further details concerning initiatives taken by the police to improve relations with minorities (para. 105).

37. With regard to the campaign for European Year against Racism, and in particular the authors' competition organized by the Ministry of the Interior (para. 110), it would be interesting to know the results of the competition. In that respect, it was undoubtedly salutary to publish a summary of the Committee's discussions on the elimination of racial discrimination (para. 117), but why not make all the observations public in order to observe the reactions of officials and the public at large to those views? While the idea of publishing a booklet in easy-to-understand language on the International Convention on the Elimination of All Forms of Racial Discrimination (para. 119) was excellent, it would be interesting to know how the initiative had been received by the public.

38. Mr. de GOUTTES praised Denmark's achievement in drafting its thirteenth report less than a year after consideration of the twelfth report by the

Committee, in March 1996, taking due account of the recommendations put forward by the Committee on that occasion and supplying information regarding the situation in Greenland. The report contained some very interesting new information, especially concerning the integration of Bosnian war refugees and immigrants (paras. 3 to 8), the financial assistance given to ethnic associations encouraging the integration of ethnic minorities (para. 9), measures taken to facilitate recruitment (para. 16), the Act on Prohibition against Differential Treatment on the Labour Market (para. 45) and lastly the integration of persons belonging to ethnic minorities in the police force and the prison service (para. 98 et seq.)

39. A few follow-up questions were in order, however. With regard to article 266 (b) of the Penal Code, amended by the Act of 17 May 1995, it was stated in paragraph 25 that prosecutors should no longer exhibit the same "restraint" with regard to prosecuting. That was tantamount to recognizing that prosecutors had previously shown restraint. It was further indicated in paragraph 27 that the Director of Public Prosecutions had informed the prosecutors, in a notice dated 6 September 1995, on the new prosecution practice in that respect. Yet judging by the fairly disappointing outcome of the prosecutions mentioned in the report (paras. 28 to 35), it appeared doubtful whether the new guidelines had really been taken into account by the prosecutors. The figures given in paragraph 80, concerning the implementation of the Act on Prohibition against Differential Treatment owing to Race, were not very significant. Did the Danish delegation have any further details on the subject?

40. In the observations issued following consideration of the twelfth report, the Committee had already expressed doubts about the implementation and the impact of "dispersal policies" applied by local authorities as a means of avoiding undue concentrations of ethnic minority families in "socially-burdened" urban neighbourhoods, and had voiced its concern at the discriminating effects such practices might have. That was a very interesting case, since the same problem might arise in other countries, which might be tempted to adopt similar solutions. It would therefore be useful if the Danish delegation could supply the Committee with more details on that point.

41. With regard to the Radio Oasen case, the report indicated that it had not yet been decided whether to institute proceedings under article 266 (b) of the Penal Code (para. 39). It would be interesting to know the judicial sequel to the case, which lay at the heart of the conflict between freedom of expression and the fight against racism, and in that respect was reminiscent of the Jersild case. The entry into force on 1 July 1996 of the Act on Prohibition against Differential Treatment on the Labour Market (para. 45) was of the greatest importance, but it would be useful to know whether any occasion to apply the law had actually arisen.

42. With regard to the European Year against Racism campaign launched by the Council of Europe and the dissemination of documentation on that occasion, he would like to have details concerning information and advertising campaigns, cooperation with the media and the competition referred to in paragraph 108, subparagraphs 2 and 3, of the report.

43. Mr. van BOVEN welcomed the regular dialogue entertained by the Committee not only with the Danish authorities, but also with the organizations involved in consideration of Denmark's report. That having been said, in the suggestions and recommendations it had made with respect to Denmark's twelfth report (A/51/18, paras. 73 to 80), the Committee had requested comprehensive information about the implementation in practice and the impact of proposed dispersal policies by the Byudvalget (Municipalities Committee). The thirteenth report, however, gave little information on the subject.

44. Similarly, the information supplied concerning the implementation of the Convention concerning Greenland in the light of the establishment of a United States military base in Thule and the resulting relocation of seal hunting settlements was incomplete. As the matter was still sub judice, it was difficult for the Committee to give an opinion, but it would continue to follow it attentively with respect both to the International Convention on the Elimination of All Forms of Racial Discrimination and ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, which seemed equally relevant. The events which had occurred in 1950 were still affecting the inhabitants of Thule and compensation was therefore unavoidable, despite the time which had elapsed. It was in fact striking that the reports submitted were generally disappointing when they dealt with article 6 of the Convention, which precisely provided for reparation for damage suffered as a result of racial discrimination. The thirteenth report of Denmark was no exception in that respect, since it merely referred back to article 4 (para. 89), which was altogether inadequate. Similarly, with respect to Greenland, the report dealt with all the articles, once again except for article 6. A general observation should be made on that point.

45. Although Denmark had indicated that article 266 (b) of the Penal Code had been amended by an act dated 17 May 1995, there was some doubt as to whether the prosecutors, who had been informed of the possibility of instituting proceedings on their own initiative, were sufficiently vigilant to do so, or whether the Department of Public Prosecutions, or a high government personality acting through that department, should not give them some encouragement.

46. Where employment was concerned, 28 per cent of foreign nationals were unemployed, compared with 9 per cent of Danish nationals (para. 48). Were employers being encouraged to recruit more foreign nationals? The new Danish legislation did not appear to provide concrete measures in favour of underprivileged groups. And yet special measures were advocated in article 1, paragraph 4, and article 2, paragraph 2 of the Convention for certain population groups; had such measures been taken and were they compatible with the new Danish legislation? Had any arrangements been made to facilitate the access of ethnic minorities to employment?

47. With regard to the implementation of article 7 of the Convention, the report mentioned the publication of booklets and reports. Had the Danish Government considered publishing the reports it submitted to the Committee, as well as the observations and recommendations which those reports elicited? That could be an extremely useful follow-up measure.

48. Ms. ZOU said that, while Denmark made commendable efforts to fulfil its obligation to submit reports and to draft the necessary anti-racist laws and regulations, it was not always quite so prompt to apply the principles it had adopted. One example was the Oasen incident, which was all the more disturbing in that it had occurred at a time when Denmark had been presiding over a committee set up by the Council of Europe to monitor respect for anti-racist legislation. Another example was the enforcement of the Act on Prohibition against Differential Treatment owing to Race, referred to in paragraphs 80 onwards. She would like to have further details concerning the trials and acquittals mentioned in paragraph 80, subparagraph (a). It was clear that merely introducing the necessary legislation or setting up various committees was not sufficient to eliminate racism. The prime weapon remained education, which could convince people that the level of development did not establish a hierarchy between races.

49. Mr. YUTZIS recalled that article 7 called on State parties to adopt measures not only in the fields of teaching, education and culture, but also, it was worth emphasizing, in the field of information. That was an extremely important area at a time when no idea and no value had any weight unless it was disseminated by the media. Noting the connection in that respect between article 7 and article 4, he said there were unsatisfactory aspects in the way the latter article had been implemented. One such failing was the Radio Oasen case. It was a matter of surprise that the station had received the authorization to broadcast even though the public authorities had been well aware of the neo-Nazi character of the association in charge of the radio station. The case also highlighted the conflict of interpretation between a local council and the Committee Concerning Local Radio and Television. It had been pointed out that the conflict reflected a positive aspect of democracy. In fact it showed that there was no authority responsible for enforcing the law.

50. He said that although paragraph 41 had passed unnoticed by the experts, the incident reported there also highlighted the importance of the media and therefore the vigilant attitude they required. He welcomed the fact that the consumer ombudsman had managed to stop the publication of the incriminated racist advertisement, but was concerned to note that no sanction had been taken against the advertising agency or against the publication in which the advertisement had appeared. The whole incident also reflected the fact that the situation in Denmark was not entirely unfavourable to the expression of a certain racism, since no advertising agency would ever take the risk of offending the public.

51. Ms. SADIQ ALI said she would like to see the Danish Government intensify the training of foreign nationals, a large proportion of whom, 50 per cent, were unemployed. She would like to know whether Denmark encouraged the establishment of multiracial associations and movements. She noted from paragraph 47 that "many foreign citizens living in Denmark were born in Denmark", and she wondered whether a foreigner born in Denmark remained a foreigner. In the section on housing, was it to be concluded from the statement in paragraph 67, to the effect that "the question of immigrants and ethnic minorities on the housing market no longer has a specific priority", that foreigners and members of minority communities were suitably housed? It appeared from the section on social affairs that many social housing projects

were intended for refugees and immigrants; in how many of those projects did the persons concerned participate? She would also like to know how many members of ethnic minorities had joined the police services. Lastly, regarding the dispute between the hunting communities of Greenland and the Central Government, she would like the Government to explain its position regarding respect for the constitutional right to property and to protection against unlawful expropriation of traditional hunting rights, as she considered that to be an obvious case of racial discrimination.

52. Mr. LECHUGA HEVIA, returning to the case of Radio Oasen, said that it clearly illustrated the importance of article 4 of the Convention. Since article 266 (b) of the Penal Code, as amended, stipulated that the propaganda aspect of a racist statement constituted an aggravating circumstance, and since prosecutors could institute proceedings on their own initiative, it was surprising that no legal proceedings had been brought in that case.

53. Mr. SHAHI noted with satisfaction that Denmark had taken the Committee's questions and conclusions into account and had undertaken some constructive initiatives. It had, for instance, amended its legislation to apply stricter sanctions against acts of racial discrimination, especially racist propaganda; it had taken measures to ensure equal access to social housing for foreigners; it had adopted an Act on prohibition against differential treatment on the labour market; and it was trying to facilitate foreigners' access to employment and to bring down barriers between Danish nationals and foreigners.

54. That having been said, the situation was still far from satisfactory. Thus there was little evidence that the sanctions provided were effectively enforced; prosecutions were infrequent and were even sometimes refused. Paragraph 23 gave the impression that Denmark attached little importance to article 3 of the Convention. In the case of article 5, he was appalled at the discrepancy between the rate of unemployment among foreign nationals from Nordic or European Union countries and the rate for nationals of other European countries, such as Turks. Lastly, he endorsed Mr. van Boven's comments regarding the lack of information on compensation granted to victims of racial discrimination.

55. He suggested that the Danish Government should add provisions to its anti-racist legislation punishing the dissemination of messages inciting hatred and should make its laws on Danish citizenship, which still associated the principles of jus soli and jus sanguinis, more flexible, so that Turks born in Denmark were able to obtain Danish nationality.

56. Mr. CHIGOVERA wanted to know in what spirit Denmark understood its action against racial discrimination, since paragraphs 30 to 33 gave the impression that the legislation in that respect had little effect and that in the area of employment, for instance, discrimination was still rife. He wanted to know what penalties, if any, were provided by law in the event of infringements of anti-racist legislation, since the severity of such penalties was one indication of how far society was prepared to tolerate racial discrimination.

57. Mr. SHERIFIS wanted to know whether any of the foreigners mentioned in paragraph 15 of the previous report (CERD/C/280/Add.1) who had obtained Danish

nationality but were not of Nordic or Danish extraction had been given prominent positions. Referring to the "green-jackets" affair mentioned in the two previous reports, with regard to which the European Convention on Human Rights had been invoked, he would like to know how that Convention and the International Convention on the Elimination of All Forms of Racial Discrimination were related in Danish law. He added that in his view the fact that the Danish courts had convicted a journalist who appeared in favour of racist ideas should be considered praiseworthy.

58. A great deal and perhaps too much was expected of Denmark, which was all to the credit of that country, but also a little unfair. Denmark was to be congratulated for having sent in its report on time and even before the required date, for having made the declaration stipulated in article 14 and for having come out in favour of the amendment of article 8, paragraph 6.

The meeting rose at 6 p.m.